NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES

PREAMBLE

1. Sections Affected — Rulemaking Action

R9-6-103	Amend
R9-6-105	Amend
R9-6-107	Amend
R9-6-202	Amend
R9-6-301	Amend
R9-6-310	Amend
R9-6-313	Amend
R9-6-314	Amend
R9-6-316	Amend
R9-6-320	New Section
R9-6-321	Renumber
R9-6-322	Amend
R9-6-323	Amend
R9-6-324	Renumber
R9-6-325	New Section
R9-6-326	Amend
R9-6-327	Amend
R9-6-328	New Section
R9-6-329	Amend
R9-6-330	Renumber
R9-6-331	Renumber
R9-6-332	Renumber
R9-6-333	Renumber
R9-6-334	Renumber
R9-6-335	Renumber
R9-6-336	Renumber
R9-6-337	Renumber
R9-6-338	Renumber
R9-6-339	Amend
R9-6-340	Renumber
R9-6-341	Amend
R9-6-342	Amend
R9-6-343	Amend
R9-6-344	Amend
R9-6-345	Amend
R9-6-346	Renumber
R9-6-347	Renumber
R9-6-348	Amend
R9-6-349	Renumber
R9-6-350	Renumber
R9-6-351	Renumber
R9-6-352	Renumber
R9-6-353	Renumber
R9-6-354	Amend

R9-6-355	Renumber
R9-6-356	Amend
R9-6-357	Amend
R9-6-358	Amend
R9-6-359	New Section
R9-6-360	Renumber
R9-6-361	Renumber
R9-6-362	Renumber
R9-6-363	Renumber
R9-6-364	Renumber
R9-6-365	Renumber
R9-6-366	Renumber
R9-6-367	Renumber
R9-6-368	Renumber
R9-6-369	New Section
R9-6-370	New Section
R9-6-371	New Section
R9-6-372	Amend
R9-6-373	New Section
R9-6-374	Renumber
R9-6-375	New Section
R9-6-409	Amend
Exhibit A	Amend
Exhibit B	New Exhibit
R9-6-501	Amend
R9-6-701	Amend
R9-6-706	Amend
R9-6-707	New Section
Table 1	Amend
Table 2	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Rule	General Authority	Specific Authority
R9-6-103 R9-6-105 R9-6-107	A.R.S. §§ 36-104(3), 36-135, 36-136(A)(7), 36-136(F), 36-136((H)(1), 36-672, and 15-872(A)	A.R.S. §§ 36-136(H)(1), 36-663(A), 36-672, and 15-872
Article 2 R9-6-202	A.R.S. §§ 36-104(3), 36-135, 36-136(A)(7), 36-136(F), 36-136(H)(1), 36-672, and 15-872(A)	A.R.S. §§ 36-136(H)(1)
Article 3 R9-6-301, R9-6-310, R9-6-314, R9-6-316, and R9-6-322 through R9-6-336	A.R.S. §§ 36-104(3), 36-135, 36-136(A)(7), 36-136(F), 36-136(H)(1), 36-672, and 15-872(A)	A.R.S. §§ 36-136(H)(1)
Article 4 R9-6-409, Exhibit A, and Exhibit B	A.R.S. §§ 36-136(H)(1), 36-663(A), and 13-1415(B)	A.R.S. §§ 36-136(H)(1), 36-663(A), and 13-1415(B)
Article 5 R9-6-501	A.R.S. §§ 36-104(3), 36-135, 36-136(A)(7), 36-136(F), 36-136(H)(1), 36-672, and 15-872(A)	A.R.S. §§ 36-136(H)(1) and 11-1003(A)
Article 7 R9-6-701, R9-6-706, R9-6-707, Table 1, and Table 2	A.R.S. §§ 36-104(3), 36-135, 36-136(A)(7), 36-136(F), 36-136(H)(1), 36-672, and 15-872(A)	A.R.S. §§ 36-135, 36-136(H)(1), 36-672(A), 36-672(B), and 15-872

3. The effective date of the rules:
April 4, 1997

4. A list of all previous notices appearing in the Register addressing the final rules:
Notice of Rulemaking Docket Opening:
1 A.A.R. 621, June 2, 1995

Notice of Proposed Rulemaking:
2 A.A.R. 4136-4151, October 4, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Ken Komatsu, MPH
Address:	Department of Health Services 3815 North Black Canyon Highway Phoenix, Arizona 85015
Telephone:	(602) 230-5932
Fax:	(602) 230-5818

6. An explanation of the rules, including the agency's reasons for initiating the rules:
The Department of Health Services (Department) rules concerning communicable and preventable diseases are located in 9 A.A.C. 6. This rule package contains 10 new rules that are proposed, 28 rules that are amended, and 28 rules that are renumbered. No rules are repealed. The rules are organized in 7 Articles that encompass: definitions, communicable disease reporting, control measures for communicable and preventable diseases, the human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS), rabies control, tuberculosis control, and vaccine preventable diseases. As part of the Departments 5-year review, this entire Chapter is amended to reflect new terminology used by the medical community, new diseases of public health importance, updated public health control measures, and statutory changes regarding consent for HIV testing.

The Department updated terminology to reflect new recommended "precautions". Updated counseling and testing guidelines are incorporated by reference. A definition concerning rabies control was changed to broaden the control measures for rabies. Special reporting requirements were amended to include reporting of newly emerging and reemerging pathogens by clinical laboratories, delineating the content of these reports and submitting bacterial pathogens isolated by clinical laboratories. Rules under Control Measures For Communicable And Preventable Diseases were amended to reflect new infection control terminology and new rules adopted for new diseases and pathogens of public health importance. R9-6-409 (Consent for HIV-related testing) was amended to include provisions for verbal consent. New consent forms were added in both English and Spanish. R9-6-501 (Animals bitten by a known rabid animal) was amended to change terminology from "bitten" to "exposed" to include the risk of exposure among persons with contact to saliva. R9-6-701 (Required immunization for school attendance) was amended to include hepatitis B vaccine in the list of diseases for which children must be immunized if they attend a school, preschool or another institution providing instruction or custodial care. R9-6-706 (Required reports) establishes reporting requirements for school administrators about enrollment, immunization status, immunizations administered by or at the school, and requirements for additional immunization information times of potential or actual disease outbreak. It also establishes reporting and record retention requirements for preschool and day care programs. It prescribes the duty of the county health officer. This rule was amended to include physician reporting of immunization information to the Department and reporting of post exposure rabies prophylaxis. R9-6-707 (Release of immunization information) delineates the conditions and persons with whom reported immunization information may be shared or released. This provision adds state and local health agencies and certain child care operators to the list. Tables 1 and 2 were amended to include a 2nd dose of measles mumps rubella vaccine and to add the use of inactivated polio vaccine and hepatitis B vaccine in the immunization schedule.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant authority of a political subdivision of this state:
Not applicable.

8. The summary of the economic, small business, and consumer impact:
The economic impact of the proposed rules upon the Department, Secretary of State, county health departments and select small businesses (such as physician offices and clinical laboratories) is moderate and minimal upon the Secretary of State and other small businesses. The Department utilized information from meetings with affected communities to write the rules, review drafts and compile the documents. In addition, moderate expense will be incurred by the Department to distribute and provide education on the revised rules. County health departments will be required to investigate more diseases. Those with a larger number of investigations such as Maricopa and Pima Counties will incur a moderate expense. Small businesses such as physician practices which immunize children, are most affected by mandatory reporting of each childhood immunization administered pursuant to A.R.S. § 36-135 and may incur moderate expense depending upon the number of vaccines administered. Small businesses such as clinical laboratories will be required to report 18 additional diseases, which depending upon the incidence may incur a moderate expense. As a result of the targeted prevention efforts, increasing immunization rates, and contact follow up consumers will benefit from the reduction and prevention of illness, disability and death.

9. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):

No substantive changes have been made in the text of the rules from that as proposed. Some grammatical, stylistic, and verbiage changes have been made to make the rules more concise and understandable. The changes include:

1. **R9-6-103** Deleted the words "the context" and "requires" and added the word "specified".
2. **R9-6-103(3)** the word "blood" was added to the definition "Body fluid". Urine and saliva were underlined.
3. **R9-6-103(4)** The word "such" was struck out as unnecessary.
4. **R9-6-103(7)** Struck out the words "herein" and "no other amendments" and added "Department and".
5. **R9-6-103(12)** Placed the words "except sweat" in parentheses.
6. **R9-6-105** Deleted the words "the context" and "requires" and added the word "specified".
7. **R9-6-105(2) and (3)** The species was added to the definition of "dog" to be *Canis familiaris* and "cat" to be *Felis domesticus*.
8. **R9-6-107** Deleted the words "the context" and "requires" and added the word "specified."
9. **R9-6-107(1)** Replaced the word "that" with the word "which".
10. **R9-6-107(13)** Struck out the word "herein".
11. **R9-6-202(A)(14)** Replaced the word "or" with the word "and".
12. **R9-6-202(B)** Added the words ", nursing home care giver or child care worker" after the word "food handler".
13. **R9-6-202(B)(5)** Deleted "Hemolytic Uremic Syndrome", since persons with this diagnosis would be hospitalized and most will be reported under E. coli O157.H7 infection.
14. **R9-6-202(B)(6)** Renumbered to R9-6-202(B)(5).
15. **R9-6-202(B)(7)** Renumbered to R9-6-202(B)(6).
16. **R9-6-202(B)(8)** Renumbered to R9-6-202(B)(7).
17. **R9-6-202(B)(9)** Renumbered to R9-6-202(B)(8)
18. **R9-6-202(C)** Struck out the word "occurrence" and added the word "discovery".
19. **R9-6-202(C)(10)** Replaced the word "or" with the word "and".
20. **R9-6-202(D)** Deleted the word "an".
21. **R9-6-202(D)(5)** Deleted the word "IgM".
22. **R9-6-202(D)(14)** Added the words "or other confirmatory test".
23. **R9-6-202(D)(18)** Added the words "...or DFA." to the end of the sentence.
24. **R9-6-202(D)(23)** Deleted "Penicillin resistant Streptococcus sp." as conflicting with R9-6-202(2).
25. **R9-6-202(D)(24)** Renumbered to R9-6-202(D)(23).
26. **R9-6-202(D)(25)** Renumbered to R9-6-202(D)(24) and added "and its drug sensitivity pattern" after the word "pneumoniae".
27. **R9-6-202(D)(26)** Renumbered to R9-6-202(D)(25).
28. **R9-6-202(D)(27)** Renumbered to R9-6-202(D)(26).
29. **R9-6-202(D)(28)** Renumbered to R9-6-202(D)(27).
30. **R9-6-202(D)(29)** Renumbered to R9-6-202(D)(28).
31. **R9-6-202(D)(30)** Renumbered to R9-6-202(D)(29) and replaced the word "or" with the word "and".
32. **R9-6-202(D)(31)** Renumbered to R9-6-202(D)(30).
33. **R9-6-202(E)(1)** Added the commas and words, ", and if available."
34. **R9-6-301** Added the sentence, "The diseases listed below are reportable." The word "communicable" and the word "reporting" have been struck out and the word "reportable" was added after the word "such". Added Escherichia coli O157:H7 infection to the list of reportable diseases and renumbered R9-6-320 through R9-6-325. Added missing text instead of "No change" to the list of reportable diseases.
35. **R9-6-310(A)** Added "s" to specimen.
36. **R9-6-313** Deleted (A), to be consistent with deletion of R9-6-202(C)(1) and changed "B" to "A" and "C" to "B".

37. **R9-6-320(A)(1)** Added a comma after the word "negative".
38. **R9-6-320** Renumbered to R9-6-321.
39. **R9-6-321** Renumbered to R9-6-322.
40. **R9-6-322** Renumbered to R9-6-323.
41. **R9-6-323** Renumbered to R9-6-324.
42. **R9-6-324** Renumbered to R9-6-325.
43. **R9-6-325**(A)(1) Renumbered to R9-6-320 and changed title to "*Escherichia coli* O157:H7 Infection".
44. **R9-6-326** Replaced with word "seven" with "7".
45. **R9-6-329** Added "C. No change" after "B".
46. **R9-6-340.** Added the Section heading, "Meningococcal Invasive Disease".
47. **R9-6-341(A)** Struck out the word "nine" and added "9".
48. **R9-6-343(A)** Struck out the word "five" and added "5".
49. **R9-6-344(A)(1)** Stuck out the word "three" and added "3".
50. **R9-6-354(A)** Added the words, "attending child care" after the word "food".
51. **R9-6-359** Replaced the word "neonate" with "Infants Less than 30 days of age".
52. **R9-6-409(A)** Underlined "A" as new. Added the words "unless ordered by the court under A.R.S. § 13-1415(B), at the end of the 1st sentence. Inserted a sentence that was left out of the Register "If an HIV-related test is ordered in a hospital, then specific written informed consent is required." Replaced the word "performed" with "ordered" and replaced the word "elsewhere" with "not in a hospital". Added periods after "A", "R", and "S". Added "A.R.S." in front of Title 32. Replaced the last sentence with "If an HIV-related test is performed anonymously, then oral consent is required and no record shall be made with person identifying information on the patient."
53. **R9-6-409(B)** Deleted "as" and replaced "a" with "the" before "form shown" in the 1st sentence.
54. **Exhibit A,** HIV Testing Deleted the words, "(supplementary test)" and added the words, "and other confirmatory tests." to the end of the 1st sentence of the 2nd paragraph of this heading.
55. **Exhibit A,** Means to Reduce Risk for Contracting or Spreading HIV Added the following sentence to the end of the paragraph, "The use of certain medications by an HIV-infected woman during pregnancy, may reduce the chances of HIV transmission from mother to child."
56. **Exhibit A,** Disclosure of Results Struck out the word "regulations" and added the word "rules". Started a new paragraph with "I understand that Arizona law...". Struck out the word "regulations" and added the word "rules". Moved the sentence beginning "Information received by these health departments..." into the paragraph preceding this sentence.
57. **Exhibit B,** Enlarged the font size from 8 to 9 pt. and moved the advisory to the right column.
58. **Exhibit B,** La prueba del VIH Deleted the words, "(prueba suplementaria)", and added the words, "u otras pruebas confirmatorías." at the end of the 1st sentence of the 2nd paragraph of this heading.
59. **Exhibit B,** Maneras de reducir el riesgo de infección o transmission del VIH Added the following sentence to the end of the paragraph, "En mujeres infectadas con VIH, el uso de ciertos medicamentos durante el embarazo, puede reducir el riesgo del transmission del VIH de madre a hijo."
60. **R9-6-501(A)** Struck out the word "three" and added "3" in (2)(b) and (4)(a), struck out the word "seven" and added "7" in (4), and struck out the word "one" and added "1" in (4)(b).
61. **R9-6-501(A)(4)(b)** Struck out the word "one" and added "1".
62. **R9-6-501(C)** Struck out the comma after "dog". Struck out the word and comma "livestock," and added the word "or" between "dog" and "cat."
63. **R9-6-501(D)** Struck out the words "codes" and added "rule A.A.C."
64. **R9-6-706(A)(4)** Added a comma between "mumps" and "rubella" in the 1st sentence.
65. **R9-6-706(F)** Added the words "licensed child care center", after the words "operator of a" in the 1st line and added a comma after the word "mumps".
66. **R9-6-706(F)(3)** Added the word "and" between "Hib" and "hepatitis B" and added a comma after "hepatitis B".
67. **R9-6-706(H)** Added the abbreviation, "A.R.S." before "Title 32."
68. **R9-6-706(H)(I)(2)** Added the prefix "tele" to "phone" in 2 instances.

69. **R9-6-706(H)(I)(3)** Deleted the words Arizona State Immunization Information System and the parentheses around "ASHS", since this is a defined term in R9-6-107(1).

70. **R9-6-706(H)(I)(3)(b)** Deleted the abbreviation "ASCII" and added "American Standard Character Information Interchange".

71. **R9-6-706(J)** Added "to the Department" after "shall submit a written report".

72. **R9-6-707(1)** Added a comma after the word "analysis".

73. **R9-6-707(2)** Replaced the word "their" with "in the care of the operator".

74. **Table 1** In the 1st line of the 2nd column of each row, added "DTaP" between "DTP" and "or DT".

75. **Table 1** In the row, "6-14 months" changed "14" to "11" months and struck out the words "(*see Note[1]*)".

76. **Table 1** In the row, "15-17 months" changed to "12-14 months" and struck out the words "(*see Note[1]*)".

77. **Table 1** In the row, "18 months to 4 years", changed "18" to "15" months, and struck out the words "*see Note[1]*)".

78. **Table 1** In the row, "4-6 years", added the words "(School Entry)" to the 1st column. Under Special Notes for DTP, struck out "last" and added "4th", for OPV or IPV" replaced the sentence beginning "but...One..." with "(*see Note[1]*)" and under Special Notes for "3 HBV" added "For kindergarten and 1st grade entry only".

79. **Table 1** In the row, "7 years or older," added the words, "(Minimum needed if documentation of vaccinations are incomplete or not available.)" to the 1st column and under Special Notes struck out "last" and added "4th" and inserted the sentence, "For children beginning the series on or after age 7 only doses of Diptheria-Tetanus containing vaccine are required." Under Special Notes for "3 OPV or IPV" replace the sentence beginning "but...One..." with "(*Note[1]*)". Under Special Notes for 1 MMR, added "A 2nd dose is recommended but not required." Under Special Notes for "3 HBV" added, "For kindergarten and 1st grade only."

80. **Footnote to Table 1** In note "1", struck out the sentence beginning "If IPV or a combination..." and added the sentence, "An additional dose of OPV or IPV is required for school entry if the 3rd dose was received before the 4th birthday."

81. **Footnote to Table 1** In note "3", changed "Individually or combined on" to ~~Individually~~ antigens or as combined MMR vaccine on" and deleted the sentence, "*Recommended on or after age 15 months.*"

82. **Footnote 4 to Table 1** In note "4", deleted the 1st sentence beginning with, "The 1st dose of Hepatitis b..." and in the 2nd sentence, deleted the comma after "1st", added the number "2-" before "5 months" and replaced the "the 1st" at the end of the 2nd sentence with "the 2nd dose as long as the child is at least 6 months of age."

83. **Table 2** In row "1" under the "Vaccine" column, struck out "DPT" and added "DTP".

84. **Table 2** In row "a", under the "Vaccine" column, changed "combination of DTP and DT" to "combination of DTP, DTaP, or DT."

85. **Table 2** In row "2", in the "Vaccine" column, inserted the superscript number, "1" after the word "*Note*".

86. **Table 2** In row "3" deleted the word dose next to the words "1st" and "2nd" from the "Dose" column and struck out the sentence "Recommended on or after 15 months of age."

87. **Table 2** In row "2", across from "3rd" Dose of OPV or IPV, in the "Time Intervals" column, struck out both existing sentences and replaced them with the following 3 sentences: "For children receiving all IPV, if 6 months have passed since the 2nd dose, the 3rd dose shall be received prior to admission. For children receiving all OPV, if 6 weeks have passed since the 2nd dose, the 3rd dose shall be received prior to admission. For children receiving a combination of IPV and OPV, (2 doses of IPV followed by 2 doses of OPV) if 4 weeks have passed since the 2nd dose of IOV, OPV shall be received as the 3rd dose prior to admission."

88. **Table 2** In row "3" across from "2nd" dose of MMR, in the "Time Intervals" columns, added "for kindergarten and 1st grade entry only" to the end of the sentence.

89. **Table 2** In row "4" under the "Vaccine" column, inserted the superscript number "2" after the word "*Note*".

90. **Table 2** In row "5", under the "Vaccine" column, replaced "b" with "B" and inserted Kindergarten and 1st grade only" from the "Time Intervals" column. Under "Time Intervals" for the 3rd dose, changed "5 months" to "at least 2 months" and "1st dose" to "2nd dose".

91. **Footnote 1 to Table 2** In note "1", struck out the 1st sentence beginning "If IPV or a..." In the 2nd sentence, struck out the word "or", changed "doses" to "dose", changed "4th dose" to "3rd dose".

10. A summary of the principal comments and the agency responses to them:

Craig Levy, Department of Health Services

R9-6-103(3) Written comments received: The definition "Body fluid" should include blood.

Response: Blood has been added to "Body fluid"

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-103(11) Written comments received: Additional information is requested explaining why "strict isolation" is being deleted.

Response: This term is outdated and is no longer used in the rules.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-105(3) Written comment received: By defining "dog" as any animal member of the genus Canis, are coyotes, wolves and wolf hybrids meant to be included? If not please specify by species.

Response: The Department has corrected the definition of "dog" to be Canis familiaris and "cat" to Felis domesticus. As rewritten it no longer includes coyotes, wolves and wolf-hybrids.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-107(2) Written comment received: "Child" appears to be inconsistent with the Arizona Revised Statute which designate children as under the age of 18.

Response: For this rule "child" is defined as 18 years of age or younger. Federal guidelines allow use of funds for vaccine up to and including age 18 years and thus widens the availability of vaccine.

Rick Marshall, Maricopa County Department of Public Health Services

R9-6-202(B) Written comment received: This passage should be amended to read, "...diseases in a food handler, child care worker or nursing home worker within 24 hours..."

Responses: The Department has added, "nursing home care giver or child care worker" since some of these diseases require work exclusion to minimize transmission.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-202(D) Written comments received: Has ADHS made provisions for ensuring compliance of out-of-state laboratories for "instate" services they will be providing?

Response: The Department has no jurisdiction over out-of-state laboratories, but has successfully sought voluntary compliance.

William Slanta, Arizona Department of Health Services

R9-6-202(D)(14) Written comments received: Consider a blanket statement about confirmatory testings. LCR is a newly licensed procedure and other tests may be on the market in the future. This may be too specific and limiting.

Response: The Department is in agreement and has amended the section to add, "or other confirmatory test."

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-202(D)(18) Written comments received: It is suggested that this be amended to read, "*Legionella* sp: culture or positive DFA."

Response: The Department has struck out the word "only" and added, "..or DFA."to the end of the sentence, since this would constitute a probable case.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-202(D)(20) Written comments received: It is suggested that the wording of this passage be amended to ensure the timely reporting of positive MTb tests in the event of a time delay in receiving drug sensitivity test results.

Response: The Department interprets this rule to require clinical laboratories to report each positive laboratory finding contained in the list each week. In the case of *Mycobacterium tuberculosis*, the presence of acid-fast bacilli from a smear would be reported a week before the culture and the sensitivity pattern several weeks after the culture. In addition, physicians and hospital administrators or their designee shall report cases and suspect cases within 24 hours of diagnosis or treatment.

William Slanta, Department of Health Services

R9-6-202(D)(27)(28)(29) Written comments received: Is vancomycin the only antibiotic resistance the Department is concerned with now or in the future? How about the emergence of drug resistance in Haemophilus or Pneumococcus? If we wish to change or add drugs which are resistant or organisms which are developing resistance, would this be readily adaptable?

Response: Vancomycin resistance is not the only drug resistance the Department is interested in as noted by the reportability

of *Streptococcus* sp. and *Mycobacterium tuberculosis* complex drug sensitivity patterns of in the proposed rules. The rules are readily changed either through the rulemaking process or emergency rulemaking process. Additionally, emergency measures may be declared in the event of an communicable disease emergency.

William Slanta, Department of Health Services

R9-6-202(E) Written comments received: Reference laboratories may have difficulty in obtaining the information being requested in this section. Doctors offices and submitting laboratories may be reluctant in supplying this information. Specimens may be lost to testing or original submittors may decide to send specimens to contract laboratories out of state to avoid taking the time to fill out required information.

Response: The Department interprets this rule to mean the "primary" laboratory or laboratory that collects and submits the specimen for testing. These laboratories will have the identifying information. The Department has and will continue to work with reference and out-of-state laboratories to facilitate reporting.

William Slanta, Department of Health Services

R9-6-202(F) Written comments received: Clinical laboratory director or authorized representative "shall" submit to the State Laboratory "isolates" of the following organisms... Does the "shall" in this sentence mean must? Are all isolates of those specified intended? Only 6 organisms are listed, are there any additional organisms which the Department feels should in all instances be confirmed by the State Laboratory or CDC?

Response: In regulatory language, "shall" means "must". At this time, these are the organisms whose isolates are important in tracking the epidemiology of these diseases. Constraints in storage space, testing capacity, and epidemiologists to review the data, limit the number of organisms the Department can request at this time. Additional organisms may be added in the future as their public health importance increases or tests become available.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-301 Written comments received: It is suggested that the word communicable in the 1st sentence of this passage be deleted for consistency's sake.

Response: The word "communicable" has been struck to be consistent.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-325 Written comment received: It is recommended that *Escherichia coli* O157:H7 infection be included in the list of reportable diseases and conditions, in addition to Hemolytic Uremic Syndrome. The fact that *E. coli* O157:H7 is reportable may be overlooked if only included as part of R9-6-325(A).

Response: *E. coli* O157:H7 was added to the list since HUS is only a subset of *E. coli* O157:H7 infections.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-326 Written comment received: It is observed that "Case control measures" which included "universal precautions", or "enteric precautions" have been eliminated based on outdated definitions, but have not consistently been replaced with the newer definitions. As an example, no recommendations for "standard precautions" have been included for R9-6-326.

Responses: As community practice, "standard precautions" are recommended for all patients regardless of their infection status and these precautions encompass the old term "enteric precautions". Therefore they were not included.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-324 Written comment received: Additional clarification is sought as to why only the local health authority and not also the treating physician would not be responsible for providing or arranging for the provision of risk reduction education. A question also arose as to whether there is a need to mandate outbreak control in this section of the rules, and whether the issue of rodent trapping, monitoring and control activities are included elsewhere as a vector control concern.

Response: The Department believes that most physicians do not know the details of Hantavirus risk reduction and the myriad of environmental control measures to exclude or eliminate rodents, whereas all local health agencies have been trained in these measures. Hantavirus Pulmonary Syndrome is a rare disease and rarely occurs in an outbreak setting. Additionally, not all local health agencies are equipped to conduct vector control, monitoring and trapping activities nor are these always indicated in all instances. In all but the largest jurisdictions, these activities are usually handled by the Department.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-342(A) Written comment received: An inconsistency was noted between the proposal to drop Pediculosis as a reportable disease yet maintain reporting requirements under this section. It is recommended that this passage be deleted.

Response: The Department has dropped reporting of outbreaks by school administrators and the responsibility of local health agency for control because most school staff are familiar with handling such infestations. Exclusion of students with lice was left as a control measure for school administrators to cite when dealing with uncooperative students or their parents or guardians.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-358(A) Written comments received: It appears that reporting of Group A streptococcal disease is deleted from this section. It should be reinstated.

Response: Invasive Group A *Streptococcus* disease is reportable under R9-6-301. Reporting language under each control measure was duplicative. R9-6-301 was changed to clarify which diseases are reportable.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-369(A) Written comments received: It is recommended that a physician or authorized representative report cases of vancomycin resistant *Enterococcus* sp.

Response: Cases of vancomycin resistant *Enterococcus* sp. are reportable under R9-6-301. Reporting language under each control measure was duplicative. R9-6-301 was changed to clarify which diseases are reportable.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-370(A) Written comments received: It is recommended that a physician or authorized representative report cases of vancomycin resistant *Staphylococcus aureus*.

Response: Cases of vancomycin resistant *Staphylococcus aureus* are reportable under R9-6-301. Reporting language under each control measure was duplicative. R9-6-301 was changed to clarify which diseases are reportable.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-371(A) Written comments received: It is recommended that a physician or authorized representative report cases of vancomycin resistant *Staphylococcus epidermidis*.

Response: Cases of vancomycin resistant *Staphylococcus epidermidis* are reportable under R9-6-301. Reporting language under each control measure was duplicative. R9-6-301 was changed to clarify that the list of diseases are reportable.

Sherri Farr, Arizona Hospital Association

R9-6-409 Written comments received: In the proposed language beginning, "If the test is performed elsewhere..." The word "elsewhere" should be replaced by "outside a hospital" and then state that either written or oral consent is appropriate. The rule should also reflect that regardless of where the test is performed, if the test is on an anonymous basis, oral consent is required and no record may be made with the patient's name.

Response: Changes were made to reflect the above comments.

Rich Marshall, Maricopa County Department of Public Health Services

Exhibit A Written comments received: Under "Means to Reduce Risk for Contracting or Spreading HIV", it is recommended that the use of antiretrovirals to reduce perinatal transmission be included in this text. Under "Disclosure of Test Results", there should be a line between the 1st and 2nd paragraph just before "I understand that Arizona...", and the 3rd paragraph starting with "Information shared by..." should be combined with the 2nd. Delete the word "regulations" from the sentence and replace with the word, "rules".

Response: Corrections were to made according to each of the comments.

Sherri Farr, Arizona Hospital Association

Exhibit A Written comments received: The box for "Identifying Information" should be deeper by at least 3/4 of an inch.

Response: The Department supplied forms, in both English and Spanish, will contain a larger box for "Identifying Information" than the form printed in the *Register*.

William Slanta, Arizona Department of Health Services

Exhibit A Written comments received: Under HIV testing, it indicates that a positive antibody test consists of a repeatedly reactive EIA and a reactive Western Blot. There are other licensed confirmatory assays on the market, such as the IFA. Private laboratories in this state may be using an assay such as this.

Response: The words, "and other confirmatory tests." were added to the sentence ending in "Western Blot".

Kathleen Ford, R.N.C., Pima County Health Department

R9-6-326(C) Written comments received: A control measure should be added to allow the local health agency to determine if individuals with hepatitis A should be excluded from attending or caring for a child in a child care.

Response: This rule does not restrict local health agencies from excluding children with hepatitis A from attending child care. There are instances when other children within the center are also shedding hepatitis A virus, since younger child with hepatitis A tend to be asymptomatic. In addition, some county health departments have requested this mandatory restriction be omitted.

Elizabeth MacNeill, Pima County Health Department

Article 3. Written comments received: On the initial list, several diseases and the corresponding Sections such as Chlamydia and Chancroid, appear to be missing.

Response: Only sections that are amended, repealed, renumbered or newly written are presented in the proposed rules. Unchanged sections such as Chlamydia and Chancroid are still contained in the Article.

Elizabeth MacNeill, Pima County Health Department

R9-6-301 Written comments received: No central area designates how and by whom reporting should be done. I recommend that a statement such as "These conditions shall be reported by the health care provider, to the local health department, within 5 business days of diagnosis, unless indicated otherwise below."

Response: A similar statement is already in place in R9-6-201. Responsibilities for reporting, special reporting requirements and the contents of a communicable disease report are all included in Article 2.

Elizabeth MacNeill, Pima County Health Department

R9-6-354 Written comments received: Do we not want to exclude children, symptomatic with salmonellosis from child care?

Response: Added "attending child care" to the list of exclusions for salmonellosis cases.

Elizabeth MacNeill and Lynn Butler, Pima County Health Department

R9-6-706(A) and (F) Written comments received: Add child care centers as having to submit required immunization information reports.

Response: Child care centers were added as having to submit required immunization reports as since they are already required to maintain such records pursuant to R9-5-305(8) and R9-5-806(A)(8) and some have been reporting voluntarily for several years.

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-501(J) Written comment received: It is recommended that "Date of Birth" and "Completion of Treatment be included in the information to be reported. Additional clarification is also sought as to who is to be the recipient of the physician's report, the local health department or ADHS.

Response: The Department believes your question refers to R9-6-706(J). R9-6-706(J)(1) includes the age of the patient, which is sufficient for record keeping purposes. Completion of treatment is not included for 3 reasons: 1) the Department would like notification upon initiation of post exposure prophylaxis in order to conduct additional follow up and animal testing if needed, 2) prophylaxis is initiated while the suspected rabid animal is tested, if the animal not rabid, treatment would not be completed, and 3) the physician beginning the prophylaxis and reporting is not always the same as the 1 who administers subsequent doses.

To clarify who receives the physician's report, the words "to the Department" were inserted after "written report".

Rich Marshall, Maricopa County Department of Public Health Services

R9-6-707 Written comment received: It is suggested that school administrators also be included as eligible to register with ASIIS to determine the immunization status of children in their care.

Response: A.R.S. § 36-135 currently allows "a school official who is authorized by law to receive and record immunization records" access to ASIIS information.

Elizabeth MacNeill and Lynn Butler, Pima County Health Department

Table 1 Written comments received: A copy of Table 1, with the following changes was submitted. In the row "< 2 months" add "at birth" to number of doses of HBV required. Change "6 -14 months" to "6-11 months", add a category "12-14 months", change "15-17" months to "15-18 months" and change "18 months to 4 years" to "19 months to 4 years". Add "DTaP" to as an option to DTP or DT. Delete "Special Notes" in the row "4-6 years" for DTP and OPV and replace them with "The 5th dose is not necessary if the 4th dose was received after the 4th birthday." for DTP and "The 4th dose is not necessary if the 3rd dose was received after the 4th birthday." for OPV, respectively. In the row "7 years or older" add "(Minimum needed if documentation of vaccinations are incomplete or not available.) in the 1st column, change "4" to "3" DTP in the number of required vaccines column and delete the special notes for DTP and OPV and replace them with "On or after age 7 only 3 doses of diphtheria-tetanus containing vaccine are required if the 3rd dose was received after the 4th birthday." for DTP and "If the 3rd dose was received after the 4th birthday" for OPV, respectively. In footnote 4, changed "b" to "B", changed "5 months" to "at least 2-5 months" and changed "after the 1st." to "after the 2nd as long as the child is at least 6 months of age."

Response: The words "at birth" describe the age at which the immunization is given and is covered in the "under 2 months" category. It is not mandatory but recommended that all infants receive the 1st dose of this vaccine at birth. The other suggested changes were made to comply with recently updated recommendations for new vaccines and schedules and use an accelerated or "catch up" schedule to insure vaccination prior to school entry. The 2nd dose MMR at 7 years or older is not required at this time since insufficient funds are available to pay for vaccinating this extremely large age group. This was fur-

ther clarified by stating, "A 2nd dose is recommended but not required". Changed language in footnote 4 to be consistent with language from the Advisory Committee on Immunization Practices.

Elizabeth MacNeill and Lynn Butler, Pima County Health. Department

Table 2 Written comments received: In row "1.b.", 3rd dose of Td, deleted the clause at the beginning of the 2nd sentence, "If a 3rd dose of DTP was received after the 4th birthday,".

In row "2.", 3rd dose of OPV or IPV, "6 weeks" should be changed to "6 months".

In row "3.", 1st dose of MMR, delete the 2nd sentence "Recommended on or after 15 months of age.".

In row "3.", 2nd dose of MMR, in the "Dose" column, added "(required for attendance, not just enrollment)".

In row "5.", 3rd dose of HBV, changed "5 months" to "2 months" and "1st dose" to 2nd dose".

In footnote 1., change "10 weeks" to "6 weeks" twice in the 1st sentence. Change "if the 4th dose was received" to "if the 3rd dose was received".

Response: The suggested changes were made to comply with recently updated OPV and IPV schedules. The 2nd dose MMR applies to kindergarten and 1st grade entry only, which was added for clarification. The interval for the 3rd dose of HBV was changed as suggested, to the shortest interval.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

12. Incorporation by reference and their location in the rules:
R9-6-103(7): *HIV Counseling, Testing, and Referral, Standards and Guidelines*, May 1994 Edition, published by the Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333.

13. Was this rule previously adopted as an emergency rule? If so, please indicate the Register citation.
No.

14. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES

ARTICLE 1. DEFINITIONS

Section
R9-6-103. Control Measures for Communicable Diseases
R9-6-105. Rabies Control
R9-6-107. Vaccine Preventable Diseases

ARTICLE 2. COMMUNICABLE DISEASE REPORTING

Section
R9-6-202. Special Reporting Requirements

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE AND PREVENTABLE DISEASES

Section
R9-6-301. Diseases and Conditions Declared ~~Communicable~~ Reportable
R9-6-310. Cholera
R9-6-313. Conjunctivitis: Acute
R9-6-314. Cryptosporidiosis
R9-6-316. Diarrhea of Newborn
R9-6-320. *Escherichia coli* O157:H7 Infection
~~R9-6-320.~~R9-6-321.Footbridge/Waterborne Illness: Unspecified Agent
~~R9-6-321.~~R9-6-322.Giardiasis
~~R9-6-322.~~R9-6-323.Gonorrhea
~~R9-6-323.~~R9-6-324.*Haemophilus influenzae* ~~Type B~~: Invasive Diseases
R9-6-325. Hantavirus Infection
~~R9-6-324.~~R9-6-326.Hepatitis A
~~R9-6-325.~~R9-6-327.Hepatitis B and Delta Hepatitis
R9-6-328. Hepatitis C
~~R9-6-326.~~R9-6-329.Hepatitis Non-A, Non-B
~~R9-6-327.~~R9-6-330.Herpes Genitalis
~~R9-6-328.~~R9-6-331.Human Immunodeficiency Virus (HIV) Infection and Related Disease
~~R9-6-329.~~R9-6-332.Human T-cell Lymphotropic Virus (HTLV-I/II) Type I and II Infection
~~R9-6-330.~~R9-6-333.Legionellosis (Legionnaires' Disease)
~~R9-6-331.~~R9-6-334.Leprosy (Hansen's Disease)
~~R9-6-332.~~R9-6-335.Leptospirosis
~~R9-6-333.~~R9-6-336.Listeriosis
~~R9-6-334.~~R9-6-337.Lyme Disease
~~R9-6-335.~~R9-6-338.Malaria
~~R9-6-336.~~R9-6-339.Measles (Rubeola)
~~R9-6-337.~~R9-6-340.Meningococcal Invasive Disease
~~R9-6-338.~~R9-6-341.Mumps
~~R9-6-339.~~R9-6-342.Pediculosis (Lice Infestation)
~~R9-6-340.~~R9-6-343.Pertussis (Whooping Cough)
~~R9-6-341.~~R9-6-344.Plague
~~R9-6-342.~~R9-6-345.Poliomyelitis
~~R9-6-343.~~R9-6-346.Psittacosis
~~R9-6-344.~~R9-6-347.Q Fever
~~R9-6-345.~~R9-6-348.Rabies in Humans
~~R9-6-346.~~R9-6-349.Relapsing Fever (Borreliosis)
~~R9-6-347.~~R9-6-350.Reye Syndrome
~~R9-6-348.~~R9-6-351.Rocky Mountain Spotted Fever
~~R9-6-349.~~R9-6-352.Rubella (German Measles)
~~R9-6-350.~~R9-6-353.Rubella Syndrome, Congenital
~~R9-6-351.~~R9-6-354.Salmonellosis
~~R9-352.~~R9-6-355.Scabies

~~R9-6-353.~~R9-6-356.Shigellosis
~~R9-6-354.~~R9-6-357.Staphylococcal Skin Disease
~~R9-6-355.~~R9-6-358.Streptococcal Disease and Invasive Group A Streptococcal Disease
R9-6-359. Streptococcal Group B: Invasive Disease in Infants Less Than 30 Days of Age
~~R9-6-356.~~R9-6-360.Syphilis
~~R9-6-357.~~R9-6-361.Taeniasis
~~R9-6-358.~~R9-6-362.Tetanus
~~R9-6-359.~~R9-6-363.Toxic Shock Syndrome
~~R9-6-360.~~R9-6-364.Trichinosis
~~R9-6-361.~~R9-6-365.Tuberculosis
~~R9-6-362.~~R9-6-366.Tularemia
~~R9-6-363.~~R9-6-367.Typhoid Fever
~~R9-6-364.~~R9-6-368.Typhus Fever: Flea-borne
R9-6-369. Vancomycin Resistant *Entercoccus* spp.
R9-6-370. Vancomycin Resistant *Staphylococcus aureus*
R9-6-371. Vancomycin Resistant *Staphylococcus epidermidis*
~~R9-6-365.~~R9-6-372.Varicella (Chickenpox)
R9-6-373. Vibrio Infection
~~R9-6-366.~~R9-6-374.Yellow fever
R9-6-375. Yersiniosis

ARTICLE 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV)/ ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

Section
R9-6-409. Consent for HIV-related Testing
Exhibit A Consent for HIV Testing
Exhibit B Consentimiento Para la Prueba de VIH

ARTICLE 5. RABIES CONTROL

Section
R9-6-501. Animals ~~bitten by~~ Exposed to a Known Rabid Animal

ARTICLE 7. VACCINE PREVENTABLE DISEASES

Section
R9-6-701. Required Immunizations for School Attendance
R9-6-706. Required Reports
R9-6-707. Release of Immunization Information
Table 1 Immunization Requirements for Child Care and School Enrollment
Table 2 Recommended Schedule for Pupils Starting Immunization after School

ARTICLE 1. DEFINITIONS

R9-6-103. Control Measures for Communicable Diseases
In Article 3, unless the context otherwise requires:

1. "Airborne precautions" means, in addition to Standard precautions, the use of respiratory protection by susceptible individuals and placement of the case in a negative pressure room.
~~1.~~2. No change.
~~2.~~3. "Body fluid" means semen, vaginal secretion, tissue, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, urine, blood, or saliva ~~any visibly bloody body secretion~~.
~~3.~~4. "Concurrent disinfection" means the application of disinfective measures to inanimate objects or surfaces after the discharge of blood or body fluids from the body of an infected person, or after the contamination of articles with ~~such~~ blood or body fluids.
5. "Contact precautions" means, in addition to Standard precautions, the use of barriers to prevent infection spread by direct contact.
~~4.~~6. No change.
~~5.~~7. "Counseling and testing site" means a health facility offering clients HIV counseling and testing which meets the standards established in the "~~Guidelines for~~ HIV Counseling, Testing, and ~~Partner Notification~~ Referral, Standards and Guidelines," ~~February 1988~~ May 1994, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333, incorporated ~~herein~~ by reference and ~~no other amendments and~~ on file with the Department and Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
~~6.~~8. "Disinfection" means killing or inactivating ~~of~~ communicable disease causing agents ~~outside the body~~ on inanimate objects by directly applied chemical or physical means.
~~7.~~9. No change.
10. "Droplet precautions" means, in addition to Standard precautions, the use of a mask when working within 3 feet of the case.
~~8.~~ ~~"Enteric precautions" mean the use of a barrier to prevent contact with feces or material contaminated with feces to prevent the spread of infection.~~
~~9.~~11. "Follow-up" means the practice of investigating and monitoring cases, carriers, contacts or suspect cases, to detect, treat or prevent disease.
12. "Standard precautions" means the use of barriers to prevent contact with blood, mucous membranes, nonintact skin, all body fluids, and secretions (except sweat).
~~10.~~ ~~"Respiratory precautions" mean the use of a barrier to prevent the airborne spread of infection.~~
~~11.~~ ~~"Strict isolation" means placing the case in a private room and using respiratory and universal precautions.~~
~~12.~~ ~~"Universal precautions" mean the use of barriers to prevent skin or mucous membrane contact with blood and body fluids.~~

R9-6-105. Rabies Control
In Article 5, unless ~~the context~~ otherwise ~~requires~~ specified:

1. No change.
2. "Cat" means an animal of the genus species *Felis domesticus*.
3. "Dog" means an animal of the genus species *Canis familiaris*.
~~2.~~4. No change.
5. "Exposed" means bitten by or having direct contact with a rabies susceptible animal.

R9-6-107. Vaccine Preventable Diseases
In Article 7, unless ~~the context~~ otherwise ~~requires~~ specified:

1. "ASIIS" means the Arizona State Immunization Information System, which is a child immunization reporting system which collects, stores, analyzes, releases, and reports immunization data.
2. "Child" means an individual 18 years of age or less.
~~1.~~3. No change.
~~2.~~4. No change.
5. "HBV" means hepatitis B vaccine.
~~3.~~6. No change.
~~4.~~7. No change.
~~5.~~8. No change.
~~6.~~9. No change.
~~7.~~10. No change.
~~8.~~11. No change.
~~9.~~12. No change.

~~10.~~13. "Vaccine" means any immunizing agent approved and licensed by the U.S. Department of Health and Human Services (HHS), Public Health Service, Food and Drug Administration (FDA), for the prevention and control of vaccine preventable diseases as set forth in "Establishments and Products Licensed Under Section 351 of the Public Health Service Act", HHS Publication No. (FDA)-89- 9003, September 30, 1989, pp. 111-150, Center for Biologics Evaluation and Research, 8800 Rockville Pike, Bethesda, Maryland 20892, incorporated ~~herein~~ by reference and on file with the Office of the Secretary of State.

ARTICLE 2. COMMUNICABLE DISEASE REPORTING

R9-6-202. Special Reporting Requirements

A. A physician or an administrator of a health care facility, or an authorized representative, shall submit a communicable disease report of a case or a suspect case of the following diseases and conditions within 24 hours of diagnosis to the local health agency by telephone or other equally expeditious means:
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. Rubella (German measles), ~~or~~
13. Tuberculosis diseases; including tuberculosis infection in a child less than 6 years of age,
14. Vancomycin resistant *Staphylococcus aureus*, and
~~13.~~15. Yellow fever.

B. A physician or an administrator of a health care facility, or an authorized representative, shall submit a communicable disease report of a case, suspect case or carrier of the following diseases in a food handler, nursing home care giver or child care worker within 24 hours of diagnosis to the local health agency by telephone or other equally expeditious means:
1. No change.
2. No change.
3. *Escherichia coli* O157:H7 infection,
~~3.~~4. No change.
~~4.~~5. No change.
~~5.~~6. No change.
~~6.~~7. Shigellosis, and
~~7.~~ ~~Staphylococcal skin disease,~~
~~8.~~ ~~Streptococcal disease, or~~
~~9.~~8. No change.

C. An administrator or authorized representative of a school, child care center or preschool shall report by telephone or equally expeditious means within 24 hours of ~~occurrence~~ discovery to the local health agency, an outbreak of:
~~1.~~ ~~Conjunctivitis: acute,~~
~~2.~~1. No change.
~~3.~~2. No change.
~~4.~~3. No change.
~~5.~~4. No change.
~~6.~~5. No change.
~~7.~~6. No change.
~~8.~~7. No change.
~~9.~~ ~~Pediculosis (lice infestation),~~
~~10.~~8. No change.
~~11.~~9. No change.
~~12.~~10. Scabies, and
~~13.~~11. Shigellosis,
~~14.~~ ~~Staphylococcal skin disease, or~~
~~15.~~ ~~Streptococcal disease.~~

D. A clinical laboratory director, or authorized representative, shall submit to the Department a weekly written, or electronic report of positive laboratory findings for the following communicable disease pathogens:
1. No change.
2. *Brucella* sp.,
3. *Campylobacter sp.*,
~~2.~~4. No change.
5. *Coccidioides immitis*; culture or serologies,
6. *Cryptosporidium* sp.,
7. *Escherichia coli* O157:H7,
~~3.~~8. No change.
9. Group B *Streptococcus*; isolated from normally sterile site, tissue or body fluid,
~~4.~~10. *Haemophilus influenzae* ~~type b~~: isolated from normally sterile sites,
11. Hantavirus,
~~5.~~12. No change.
~~6.~~13. No change.
14. Hepatitis C Virus (anti-Hepatitis C RIBA, PCR or other confirmatory test),
~~7.~~15. No change.
~~8.~~16. No change.
~~9.~~17. No change.
18. *Legionella* sp.: culture or DFA,
19. *Listeriosis* sp.: culture isolated from normally sterile sites only,
~~10.~~20. *Mycobacterium tuberculosis* and its drug sensitivity pattern,
~~11.~~21. No change.
~~12.~~22. *Neisseria meningitidis*, ~~or~~
23. *Plasmodium* sp.,
24. *Streptococcus pneumoniae* and its drug sensitivity pattern: culture isolated from normally sterile sites only,
~~13.~~25. No change.
26. Vancomycin resistant *Enterococcus*,
27. Vancomycin resistant *Staphylococcus aureus*,
28. Vancomycin resistant *Staphylococcus epidermidis*,
29. *Vibrio* sp., and
30. *Yersinia* sp.,

E. The written or electronic laboratory report shall include:
1. Name, and if available, address, and telephone number of the patient;
2. Birth date of the patient;
3. Reference number;
4. Specimen type;
5. Date of collection;
6. Type of test;
7. Test results; and
8. Ordering physician's name and telephone number.

F. A clinical laboratory director, or authorized representative, shall submit isolates of the following organisms to the Arizona State Laboratory:
1. *Bordetella pertussis*,
2. *Haemophilus influenzae* from sterile sites only,
3. Group A *Streptococcus* from sterile sites only,
4. *Neisseria meningitidis*,
5. *Salmonella* sp., and
6. Vancomycin resistant *Staphylococcus aureus*.

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE AND PREVENTABLE DISEASES

R9-6-301. Diseases and Conditions Declared ~~Communicable~~ Reportable

The following diseases listed below are reportable. The ~~communicable~~ diseases and corresponding Sections of this Article which designate the ~~reporting,~~ case control, contact control, environmental control, special control and outbreak control measures, if any for each such reportable disease, are listed below:

R9-6-302. Amebiasis
R9-6-303. Anthrax
R9-6-304. Aseptic meningitis: viral
R9-6-305. Botulism
R9-6-306. Brucellosis
R9-6-307. Campylobacteriosis
R9-6-308. Chancroid (*Haemophilus ducreyi*)
R9-6-309. Chlamydia
R9-6-310. Cholera
R9-6-311. Coccidioidomycosis (valley fever)
R9-6-312. Colorado tick fever
R9-6-313. Conjunctivitis: acute
R9-6-314. Cryptosporidosis
R9-6-315. Dengue
~~R9-6-316. Diarrhea of Newborn~~
R9-6-317. Diphtheria
R9-6-318. Ehrlichiosis
R9-6-319. Encephalitis: viral
R9-6-320. *Escherichia coli* O57:H7 infection
~~R9-6-320~~R9-6-321.Foodborne/Waterborne illness: unspecified agent
~~R9-6-321~~R9-6-322.Giardiasis
~~R9-6-322~~R9-6-323.Gonorrhea
~~R9-6-323~~R9-6-324.*Haemophilus ~~i~~influenzae ~~Type B~~*: Invasive Disease
R9-6-325. Hantavirus Infection
~~R9-6-324~~R9-6-326.Hepatitis A
~~R9-6-325~~R9-6-327.Hepatitis B and delta virus
R9-6-328. Hepatitis C
~~R9-6-326~~R9-6-329.Hepatitis Non-A, Non-B
R9-6-327R9-6-330.Herpes genitalis
~~R9-6-328.~~R9-6-331.Human Immunodeficiency Virus (HIV) infection and related disease
~~R9-6-329.~~R9-6-332.Human T-cell Lymphotropic Virus (HTLV-I/II) type I and II infection
~~R9-6-330.~~R9-6-333.Legionellosis (Legionnaires' disease)
~~R9-6-331.~~R9-6-334.Leprosy
~~R9-6-332.~~R9-6-335.Leptospirosis
~~R9-6-333.~~R9-6-336.Listeriosis
~~R9-6-334.~~R9-6-337.Lyme disease
~~R9-6-335.~~R9-6-338.Malaria
~~R9-6-336.~~R9-6-339.Measles (rubeola)
~~R9-6-337.~~R9-6-340.Meningococcal invasive disease
~~R9-6-338.~~R9-6-341.Mumps
~~R9-6-339.Pediculosis (Lice Infestation)~~
~~R9-6-340.~~R9-6-343.Pertussis (whooping cough)
~~R9-6-341.~~R9-6-344.Plague
~~R9-6-342.~~R9-6-345.Poliomyelitis
~~R9-6-343.~~R9-6-346.Psittacosis
~~R9-6-344.~~R9-6-347.Q fever
~~R9-6-345.~~R9-6-348.Rabies in humans
~~R9-6-346.~~R9-6-349.Relapsing fever (borreliosis)
~~R9-6-347.~~R9-6-350.Reye syndrome
~~R9-6-348.~~R79-6-351.Rocky Mountain spotted fever
~~R9-6-349.~~R9-6-352.Rubella (German measles)
~~R9-6-350.~~R9-6-353.Rubella syndrome, congenital
~~R9-6-351.~~R9-6-354.Salmonellosis
~~R9-6-352.~~R9-6-355.Scabies
~~R9-6-353.~~R9-6-356.Shigellosis
~~R9-6-354.Staphylococcal Skin Disease~~
~~R9-6-355.~~R9-6-358.Streptococcal ~~Disease and Invasive~~ Group A: ~~Streptococcal~~ Invasive Disease
R9-6-359.Streptococcal Group B: Invasive Disease in Infants Less Than 30 Days of Age
~~R9-6-356.~~R9-6-360.Syphilis
~~R9-6-357.~~R9-6-361.Taeniasis
~~R9-6-358.~~R9-6-362.Tetanus
~~R9-6-359.~~R9-6-363.Toxic shock syndrome
~~R9-6-360.~~R9-6-364.Trichinosis
~~R9-6-361.~~R9-6-365.Tuberculosis
~~R9-6-362.~~R9-6-366.Tularemia
~~R9-6-363.~~R9-6-367.Typhoid fever
~~R9-6-364.~~R9-6-368.Typhus fever: flea-borne
~~R9-6-369.~~Vancomycin resistant *Entercoccus* sp.
~~R9-6-370.~~Vancomycin resistant *Staphylococcus aureus*
~~R9-6-371.~~Vancomycin resistant *Staphylococcus epidermidis*
~~R9-6-365.~~R9-6-372.Varicella (chickenpox)
R9-6-373. Vibrio infection
~~R9-6-366.~~R9-6-374.Yellow fever
R9-6-375. Yersiniosis

R9-6-310. Cholera

A. Case control measures: ~~A health care provider shall use enteric precautions for a hospitalized case.~~ The local health agency shall exclude a case from handling food, caring for patients, working in or attending a child care center or preschool until 2 negative fecal examinations have been obtained from specimens collected 24 hours or more apart.
B. No change.
C. No change.
D. No change.

R9-6-313. Conjunctivitis: Acute

~~**A.** Reports: An administrator or authorized representative of a public or private school, child care center or preschool shall report an outbreak of conjunctivitis.~~
~~**B.**~~**A.** No change.
~~**C.**~~**B.** No change.

R9-6-314. Cryptosporidiosis

~~**A.** Case control measures: The health care provider shall use enteric precautions for hospitalized cases.~~
~~**B.**~~ No change.

R9-6-316. Diarrhea of Newborn

A. No change.
B. No change.
C. No change.
~~**D.** Outbreak control measures: The local health agency shall conduct or direct an epidemiologic investigation of each reported outbreak.~~
E.D. No change.

R9-6-320. *Escherichia coli* O157:H7 Infection

A. Case control measures: The local health agency shall exclude a case with symptoms of *Escherichia coli* O157:H7 from handling food or attending child care until either of the following occurs:
1. Two successive stool cultures obtained from specimens collected 24 hours or more apart are negative, or
2. Symptoms are absent.

B. Environmental control measures: The diagnosing health care provider or authorized representative shall counsel a case about hand washing and concurrent disinfection of contami-

nated articles. In the event the case is a child or incapacitated adult, a health care provider shall counsel the person responsible for care.

C. Outbreak control measures: The local health agency shall conduct or direct an epidemiologic investigation of each reported outbreak.

~~R9-6-320.~~R9-6-321.**Foodborne/Waterborne Illness: Unspecified Agent**
No change.

~~R9-6-321.~~R9-6-322.**Giardiasis**
No change.

~~R9-6-322.~~R9-6-323.**Gonorrhea**
A. No change.
B. No change.
C. No change.
1. No change.
a. No change.
b. No change.
c. No change.
2. A parent or guardian may refuse the treatment set forth in subsection (C)(1) by signing a written statement, witnessed by the physician or person attending the birth, stating that the parent or guardian has been informed of the potential risks and benefits of waiving the prescribed treatment and is refusing to allow its application. The physician or person attending the birth shall maintain a copy of the written refusal in the newborn's medical record.
~~2.~~3. No change.

~~R9-6-323.~~R9-6-324.*Haemophilus influenzae* ~~Type B~~: **Invasive Diseases**
No change.

R9-6-325. **Hantavirus Infection**
Environmental control measures: A local health agency shall provide or arrange for the provision of education on reducing risks of hantavirus infection to the patient.

~~R9-6-324.~~R9-6-326.**Hepatitis A**
~~A. Case control measures: A health care provider shall use enteric precautions for a hospitalized case.~~
~~B.~~A. No change.
~~C.~~B. No change.
~~D.~~C. Special control measures: The local health agency shall:
1. Exclude a case from handling food ~~or attending child care~~ during the 1st 14 days of illness or for ~~seven~~ 7 days after the onset of jaundice.
2. No change.

~~R9-6-325.~~R9-6-327.**Hepatitis B and Delta Hepatitis**
A. Case control measures: A health care provider or operator of a blood or plasma center shall not utilize donated blood, plasma, body organs, sperm or other tissue from a case, suspect case or carrier for transfusion or transplantation. ~~A health care provider shall use universal precautions with a case.~~
B. No change.
C. No change.
D. No change.

R9-6-328. **Hepatitis C**
A. Case control measures: A health care provider or operator of a blood or plasma center shall not utilize donated blood, plasma, body organs, sperm, or other tissue from a case, suspect case, or suspect carrier for transfusion or transplantation.
B. Environmental control measures: The diagnosing health care provider or authorized representative shall counsel a case about hand washing and concurrent disinfection of contaminated articles. In the event the case is a child or incapacitated adult, a health care provider shall counsel the persons responsible for their care.
C. Special control measures: Any person operating a blood or plasma center who interprets, as positive, a test for HCV or antibodies to HCV, shall within 30 days of verifying the final results of the test, notify the person on whom the test was performed.

~~R9-6-326.~~R9-6-329.**Hepatitis Non-A, Non-B**
A. Case control measures: A health care provider or operator of a blood or plasma center shall not utilize donated blood, plasma, body organs, sperm or other tissue from a case, suspect case or suspect carrier for transfusion or transplantation. ~~A health care provider shall use universal precautions for a case.~~
~~C.~~B. No change.
C. No change.

~~R9-6-327.~~R9-6-330.**Herpes Genitalis**
No change.

~~R9-6-328.~~R9-6-331.**Human Immunodeficiency Virus (HIV) Infection and Related Disease**
No change.

~~R9-6-329.~~R9-6-332.**Human T-cell Lymphotropic Virus (HTLV-I/II) Type I and II Infection**
No change.

~~R9-6-330.~~R9-6-333.**Legionellosis (Legionnaires' Disease)**
No change.

~~R9-6-331.~~R9-6-334.**Leprosy (Hansen's Disease)**
No change.

~~R9-6-332.~~R9-6-335.**Leptospirosis**
No change.

~~R9-6-333.~~R9-6-336.**Listeriosis**
No change.

~~R9-6-334.~~19-6-337.**Lyme Disease**
No change.

~~R9-6-335.~~R9-6-338.**Malaria**
No change.

~~R9-6-336.~~R9-6-339 .**Measles (Rubeola)**
A. No change.
B. Contact control measures:
1. Unless able to provide evidence of immunity to measles in accordance with R9-6-703, an administrator or authorized representative of a school, child care center or preschool shall consult with the local health agency to determine who shall be excluded and the how long they shall be excluded. ~~exclude contacts of cases from the school or center for two weeks from the onset of rash in the case.~~
2. No change.
C. Outbreak control measures: An administrator or authorized representative of a school, child care center or preschool shall consult with the local health agency to determine who shall be excluded and how long they shall be excluded ~~exclude non-immune persons from the school, child care center or preschool~~ during an outbreak.
D. No change.

~~R9-6-337.~~R9-6-340.Meningococcal Invasive Disease
No change.

~~R9-6-338.~~R9-6-341.Mumps
A. Case control measures: An administrator or authorized representative of a school, child care center or preschool shall exclude a case from the school, child care center or preschool for 9 days following the onset of glandular swelling. A health care provider shall use ~~respiratory~~ droplet precautions for ~~nine~~ 9 days following the onset of glandular swelling.
B. No change.

~~R9-6-339.~~R9-6-342.Pediculosis (Lice Infestation)
A. No change.
B. No change.
C. No change.
D. No change.
~~E. Outbreak control measures: The local health agency shall provide education and consultation regarding prevention and control measures contained in R9-6-339(A),(B),(C).~~

~~R9-6-340.~~R9-6-343.Pertussis (Whooping Cough)
A. Case control measures: An administrator or authorized representative of a school, child care center or preschool shall exclude a case from the school, child care center or preschool for 21 days after the date of onset of the illness, or for 5 days following the date of initiation of treatment for pertussis. A health care provider shall use ~~respiratory~~ droplet precautions for a hospitalized case for 5 days following the date of initiation of treatment.
B. No change.
C. No change.
D. No change.

~~R9-6-341.~~R9-6-344.Plague
A. Case control measures:
1. A hospital shall ~~place~~ use droplet precautions for a case of pneumonic plague ~~in strict isolation with special ventilation~~ until ~~three~~ 3 full days of clinically effective antibiotic therapy have been completed.
2. No change.
B. No change.
C. No change.
D. No change.

~~R9-6-342.~~R9-6-345.Poliomyelitis
~~A. Case control measures: A health care provider shall use enteric precautions for a hospitalized case.~~
~~B.~~A. No change.
~~C.~~B. No change.

~~R9-6-343.~~R9-6-346.Psittacosis (Ornithosis)
No change.

~~R9-6-344.~~R9-6-347.Q Fever
No change.

~~R9-6-345.~~R9-6-348.Rabies in Humans
A. Case control measures: ~~A health care provider shall use universal precautions for saliva, respiratory secretions and potentially infectious body fluids for hospitalized cases.~~ A health care provider or operator of a blood or plasma center shall not utilize donated blood, plasma, body organs, sperm or other tissue from a case, suspect case or suspect carrier for transfusion or transplantation.
B. No change.

~~R9-6-346.~~R9-6-349.Relapsing Fever (Borreliosis)
No change.

~~R9-6-347.~~R9-6-350.Reye Syndrome
No change.

~~R9-6-348.~~R9-6-351.Rocky Mountain Spotted Fever
No change.

~~R9-6-349.~~R9-6-352.Rubella (German Measles)
No change.

~~R9-6-350.~~R9-6-353.Rubella Syndrome, Congenital
No change.

~~R9-6-351.~~R9-6-354.Salmonellosis
A. Case control measures: The local health agency shall exclude a case with symptoms of salmonellosis from handling food, attending child care, caring for children in child care or preschools or caring for patients in nursing homes until either of the following occurs:
1. No change.
2. No change.
~~A health care provider shall use enteric precautions for hospitalized cases.~~
B. No change.
C. No change.
D. No change.

~~R9-6-352.~~R9-6-355.Scabies
No change.

~~R9-6-353.~~R9-6-356.Shigellosis
A. Case control measures:
1. No change.
a. No change.
b. No change.
~~2. A health care provider shall use enteric precautions for hospitalized cases.~~
~~3.~~2. No change.
B. No change.
C. No change.
D. No change.

~~R9-6-354.~~R9-6-357.Staphylococcal Skin Disease
A. No change.
B. No change.
C. No change.
~~D. Outbreak control measures: The local health agency shall conduct or direct an epidemiologic investigation of each reported outbreak.~~
~~E.~~D. Special control measures: In a hospital nursery outbreak, a hospital administrator or authorized representative shall exclude a health care provider ~~who has patient contact~~ from the nursery until the health care provider is examined and found not to carry the epidemic strain or the cases are discharged.

~~R9-6-355.~~R9-6-358.Streptococcal Disease and Invasive Group A Streptococcal Disease
~~A. Reports: An administrator or authorized representative of a public or private school, child care center, preschool shall report an outbreak of streptococcal disease. A physician or authorized representative shall report a case of streptococcal disease in a foodhandler within 24 hours of diagnosis and report a case of invasive group A streptococcal disease.~~
~~B.~~A. Case control measures: The local health agency shall exclude a case with streptococcal lesions or streptococcal sore throat from food handling or attending school or child care for 24 hours after the initiation of treatment for streptococcal disease.
~~C. Environmental control measures: The diagnosing health care provider or authorized representative shall counsel a case~~

~~about hand-washing and concurrent disinfection of contaminated articles. In the event the case is a child or incapacitated adult, a health care provider shall counsel the person responsible for care.~~

~~D.~~B. No change.

~~E.~~C. No change.

R9-6-359. Streptococcal Group B Invasive Disease in Infants Less Than 30 Days of Age

Special control measures: The local health agency shall complete an investigation of each case of invasive group B streptococcal disease using a form provided by the Department.

~~R9-6-356.~~R9-6-360.Syphilis

No change.

~~R9-6-357.~~R9-6-361.Taeniasis

No change.

~~R9-6-358.~~R9-6-362.Tetanus

No change.

~~R9-6-359.~~R9-6-363.Toxic Shock Syndrome

No change.

~~R9-6-360.~~R9-6-364.Trichinosis

No change.

~~R9-6-361.~~R9-6-365.Tuberculosis

No change.

~~R9-6-362.~~R9-6-366.Tularemia

No change.

~~R9-6-363.~~R9-6-367.Typhoid Fever

No change.

~~R9-6-364.~~R9-6-368.Typhus Fever: Flea-borne

No change.

R9-6-369. Vancomycin Resistant *Enterococcus* sp.

Case control measures: An administrator or authorized representative of a hospital or health care facility shall implement contact isolation for patients with suspected vancomycin resistant *Enterococcus* sp.

R9-6-370. Vancomycin Resistant *Staphylococcus aureus*

Case control measures: An administrator or authorized representative of a hospital or health care facility shall implement contact isolation for patients with suspected vancomycin resistant *Staphylococcus aureus*.

R9-6-371. Vancomycin Resistant *Staphylococcus epidermidis*

Case control measures: An administrator or authorized representative of a hospital or health care facility shall implement contact isolation for patients with suspected vancomycin resistant *Staphylococcus epidermidis*.

~~R9-6-365.~~R9-6-372.Varicella (Chickenpox)

Case control measures: An administrator or authorized representative of a school, child care center, or preschool shall exclude a case from school, child care center, or preschool until lesions are dry and crusted. A hospital shall use ~~strict isolation~~ airborne precautions for a case.

R9-6-373. Vibrio Infection

Special control measures: The local health agency shall complete an investigation of each case of *Vibrio* infection using a form provided by the Department.

~~R9-6-366.~~R9-6-374. Yellow Fever

No change.

R9-6-375. Yersiniosis

Special control measures: The local health agency shall complete an investigation of each case of yersinosis using a form provided by the Department.

ARTICLE 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV)/ ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

R9-6-409. Consent for HIV-Related Testing

A. A person ordering ~~the~~ an HIV-related test shall obtain ~~written~~ consent for ~~an HIV-related~~ the test, unless ordered by the court under A.R.S. § 13-1415(B), ~~unless the test is performed on an anonymous basis. If the HIV-related test is performed anonymously, consent may be oral, pursuant to A.R.S. § 36-663. Written consent shall be made on a form shown as Exhibit A.~~ If the test is ordered in a hospital, specific written informed consent is required. If the test is ordered outside a hospital by a physician licensed pursuant to A.R.S. Title 32, Chapter 13, 17, or 29, a nurse practitioner certified pursuant to A.R.S. Title 32, Chapter 15 or a physician's assistant certified pursuant to A.R.S. Title 32, Chapter 25, the consent shall be either written or oral. If the HIV-related test is performed anonymously, then oral consent is required and no record shall be made with personal identifying information on the patient.

B. Written consent shall be on the form shown in Exhibit A (English) or Exhibit B (Spanish). Individuals and facilities using the consent form may add or affix the following additional information in the Identifying Information section of the form: patient/subject's name and identifying number, facility identifying information, facility processing codes, and patient/subject's date of birth and sex. This form may be reproduced to accommodate a multiple copy or carbonless form.

Exhibit A

Consent for HIV Testing

Information on HIV

The Human Immunodeficiency Virus (HIV) is the virus that causes Acquired Immune Deficiency Syndrome (AIDS). HIV is spread through the exchange of blood (including transfusion), sexual fluids (semen and vaginal secretions) and sometimes through breast milk. HIV can be transmitted from mother to baby during pregnancy or childbirth.

HIV Testing

There are several laboratory tests for HIV. The most common is the antibody test, which is a blood test that detects antibodies produced by the body in response to infection with HIV.

A positive antibody test consists of a repeatedly reactive (the same specimen testing positive twice) enzyme immunoassay (EIA) and a reactive Western blot (supplementary test). A positive antibody test means that an individual is infected with HIV; however, this does not always mean that the individual has AIDS. Research indicates that early and regular medical care is important to the health of a person with HIV. Certain treatments are now available to delay HIV-associated illnesses.

A negative antibody test indicates that no detectable antibodies are present in the blood. An individual may not have antibodies because the individual is not infected with HIV or because detectable antibodies have not yet been made in response to infection. The production of these antibodies could take 3 months or longer. Therefore, in certain cases, an individual may be infected with HIV and yet test negative. Individuals with a history of HIV risk behaviors within the past 3 to 6 months should consider retesting.

Like any test, HIV testing is not 100% reliable and may occasionally produce both false positive and false negative results.

Means to Reduce Risk for Contracting or Spreading HIV

Risk of contracting or spreading HIV can be reduced by avoiding or decreasing contact with blood and sexual fluids (semen and vaginal secretions). Some methods of decreasing the risk of contracting or spreading HIV include abstaining from sexual intercourse, using methods that limit exposure to body fluids during intercourse (such as the proper use of condoms), not engaging in injecting drug use, not sharing needles, or using bleach and water to clean needles and syringes.

Disclosure of Test Results

I understand that if the HIV test results are positive, the physician or facility representative conducting the test will make reasonable efforts to notify me of the results at the address or phone number I have provided, and will provide or arrange for counseling as required by Arizona state laws and regulations regarding (1) the HIV (2) AIDS and (3) appropriate precautions to reduce the likelihood of transmission of the virus to others. I agree to assume all risks that may result if I cannot be contacted.
I understand that Arizona law and regulations require that if my test results are positive, they will be submitted to local and state health departments.

Identifying Information

Information received by these health departments may only be released (1) if there is written authorization from the person being tested; (2) for statistical purposes without individual identifying information, or as otherwise required or allowed by law.

I also understand that the physician or facility may report to the Arizona Department of Health Services identifiable 3rd parties such as a spouse or sex partner who may be at risk of contracting the virus if I do not release this information. Finally, I understand that the test results may be placed in a medical record kept by the facility or person administering the test and that persons involved in providing or paying for my health care may have access to that information.

Additional Sources of Information on HIV

Additional information regarding testing for HIV is available through your county health department and, in the Phoenix metropolitan area, (602) 234-2752, the Tucson metropolitan area, (520) 326-2437, or outside the Phoenix area, 1-800-334-1540. National Hotline: English, 1-800-342-2437; Spanish, 1-800-344-7432; TTY/TDD, 1-800-243-7012.

Consent

I have been given the opportunity to ask questions regarding this information and have had my questions answered to my satisfaction. I understand that this test can be performed anonymously at a public health agency. I also understand that I may withdraw my consent at any time before a blood sample is taken in order to conduct a test, and that I may be asked to put my decision to withdraw my consent in writing if I have signed this consent. I also understand that this is a voluntary test and that I have a right to refuse to be tested.

My signature below indicates that I have received and understand the information I have been given and I voluntarily consent to and request HIV testing.

_____
Patient/Subject Name (Printed)

_____
Patient/Subject or Legal Representative Signature

_____
Date

_____
Witness

NOTICE

The Arizona Department of Health Services does not discriminate on the basis of disability in the administration of its programs and services as prescribed by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. If you need this publication in an alternative format, please contact the ADHS Office of HIV/STD Services at (602) 230-5819 or 1-800-367-8939 (state TDD/TTY Relay).

Exhibit B

Identifying Information/Datos de Identidad Identifying Information Consentimiento Para la Prueba de VIH

Información sobre el VIH
El virus de Inmunodeficiencia Humana (VIH) es el virus que causa el Sindrome de Inmunodeficiencia Adquirida (SIDA). VIH se transmite a través del contacto con sangre (incluyendo la transfusión), fluídos sexuales (semen y secreciones vaginales) y en algunas ocaciones a través de la leche materna. VIH puede ser transmitido de la madre al bebé durante el embarazo o al momento del parto.

La prueba del VIH
Existen pruebas de laboratorio para saber si una persona está infectada con el VIH. La más común es la prueba de anticuerpos. Esta es un exámen de sangre que detecta los anticuerpos producidos por el cuerpo al reaccionar contra la infección por VIH.

Un examen de anticuerpos positivo consiste de una prueba por inmunoanálisis enzimático (EIA) (realizada dos veces en cada espécimen) y una prueba reactiva por Western Blot (prueba suplementaria). El resultado positivo a la prueba de anticuerpos quiere decir que el individuo está infectado con el VIH; sin embargo, esto no siempre quiere decir que el individuo tenga el SIDA. Investigaciones médicas señalan que atención médica temprana y contínua es importante para la salud de una persona con el VIH. Hoy en día se dispone de tratamientos para retardar las enfermedades asociadas con el SIDA.

Un exámen de anticuerpos negativo indica que no se han detectado anticuerpos en la sangre. Un individuo puede no tener anticuerpos por que el individuo no está infectado(a) o porque aún no se han producido suficientes anticuerpos contra la infección. Estos anticuerpos pueden tardar tres meses o más para ser producidos. De tal manera, en ciertos casos, un individuo puede estar infectado con el VIH y su prueba resultar negativa. Los individuos que han tenido comportamiento de alto riesgo en los últimos tres a seis meses deberían pensar en repetir la prueba.

Como cualquier prueba, la prueba del VIH no es 100% segura y en alguna ocasión puede producir resultados falsos ya sea positivos o negativos.

Maneras de reducir el riesgo de infección o transmisión del VIH
El riesgo de contraer o transmitir el VIH se puede reducir al evitar contacto con la sangre y fluídos sexuales (semen y secreciones vaginales). Algunos métodos para disminuir el riesgo de infección o transmisión del VIH incluyen: abstinecia sexual, usar métodos que limitan el contacto de fluídos corporales durante la relaciones sexuales (como el uso correcto de condones), no usar drogas intravenosas, no compartir agujas, y usar "cloro" (blanqueador) y agua para limpiar las jeringas y las agujas.

El resultado de la prueba
Entiendo que si el resultado de la prueba del VIH es positivo, el doctor o el representante de la institución que hizo el exámen va a hacer esfuerzos suficientes para notificarme del resultado a la dirección (domicilio) o al teléfono que he proporcionado y que me dará información, cumpliendo con los requisitos de la ley estatal de Arizona, sobre (1) el VIH, (2) el SIDA, y (3) las precauciones necesarias para reducir la posibilidad de transmisión del virus a otras personas. Estoy de

Identifying Information

acuerdo en asumir todos los riesgos que resultarán de no poder contactarme.

Entiendo que la ley estatal de Arizona exige que si el resultado de mi prueba es positivo, éste se reportará a los departamentos de salud local y estatal. La información que estos departamentos reciben solamente puede ser revelada a otras personas: (1) si hay una autorización por escrito de la persona que se ha hecho la prueba; (2) por razones de estudios estadísticos sin revelar la identidad delindividuo, o por cualquier otra razón que la ley permita.

También entiendo que el doctor o la institución puede reportar al Departamento de Salud del Estado de Arizona, la identidad de terceras personas como: los esposos(as) o los compañeros(as) sexuales que pueden estar en riesgo de contraer con el virus si decido no darles esta información. Por último, entiendo que el resultado de la prueba puede guardarse con el resto de mi información médica en la agencia o por la persona que hizo el examen; y que las personas encargadas de proveer o pagar por el cuidado de mi salud pueden tener acceso a esta información.

Otras fuentes de información sobre el VIH
Información adicional sobre el examen del VIH está disponible a través del departamento de salud de su condado. En el área metropolitana de Phoenix llame al (602) 234-2752, en el área metropolitana de Tucson (520) 326-2437, y en el resto de Arizona 1-800-334-1540. Líneas telefónicas a nivel nacional son: en inglés 1-800-342-2437; en español 1-800-344-7432. (TTY/TDD) Transmisión de voz 1-800-243-7012.

Consentimiento
Se me ha dado la oportunidad de hacer preguntas respecto a esta información y me han sido contestadas satisfactoriamente. Entiendo que este exámen se puede hacer de forma anónima en una agencia de salud pública. También entiendo que puedo retirar mi consentimiento en cualquier momento antes de que me saquen la sangre para hacer la prueba y que me pueden pedir que ponga por escrito mi decisión de retirar mi consentimiento si ya habiá firmado este permiso. Entiendo también que este exámen es voluntario y que tengo el derecho a negarme a que se me haga la prueba.

Mi firma indica que he recibido y he entendido la información que se me ha proporcionado y que voluntariamente autorizo y solicito la prueba del VIH.

Nombre del paciente (letra imprenta)

Firma del paciente o de su representante legal

Fecha

Testigo

AVISO

El Deparamento de Salud del Estado de Arizona no discrimina basado en los impedimentos de las personas en la administración de los progamas y sevicios ordenado por la ley de 1990: Americanos con Impedimentos, Título II y la Sección 504 de la ley de Rehabilitación de 1973. Si usted necesita esta publicación por otros medios de comunicación, favor ponerse en cantacto con el Departamento de Salud del Estado de Arizona, Oficina de Servicios de VIH/ETS al 1-800-842-4681 (transmisión de voz estatal) or 1-800-367-8939 (transmisión TDD/TYY estatal.)

ARTICLE 5. RABIES CONTROL

R9-6-501. Animals ~~bitten by~~ Exposed to a Known Rabid Animal

A. An animal control agency shall manage a dog or cat ~~bitten by~~ that has direct contact with a known or suspected rabid animal according to 1 of the following procedures:
1. Euthanize;
2. Confine in isolation for 180 days under the supervision and control of the county or municipal animal control agency and vaccinate 30 days before release:
   a. If the ~~bitten~~ exposed animal was never vaccinated,
   b. If the ~~bitten~~ exposed animal was vaccinated with a triennial vaccine more than 3 years before being ~~bitten~~ exposed, or
   c. If the ~~bitten~~ exposed animal was vaccinated with any other vaccine more than a year before being ~~bitten~~ exposed;
3. Revaccinate and confine in isolation for 90 days under the supervision and control of the county or municipal animal control agency, if the animal was vaccinated less than 30 days before being ~~bitten~~ exposed; or
4. Revaccinate within 7 days, confine and observe by the owner for ~~90~~ 45 days with the approval and supervision of the county or municipal animal control agency under the following circumstances:
   a. If the animal was vaccinated with a triennial vaccine more than 30 days and less than ~~three~~3 years before being ~~bitten~~ exposed, or
   b. If the animal was vaccinated with any other vaccine more than 30 days and less than ~~one~~1 year before being ~~bitten~~ exposed.

B. The animal control agency shall immediately euthanize, ~~or confine for 180 days under the supervision and control of the county or municipal animal control agency,~~ an animal, except a cat, dog or livestock, ~~bitten by~~ exposed to a known rabid animal.

C. The animal control agency shall handle a dog, or cat ~~or other animal, except livestock, bitten by~~ exposed to a suspected rabid animal in the same manner as 1 ~~bitten by~~ exposed to a known rabid animal, except that confinement shall be terminated at such time as it is determined that the biting animal is not rabid. Such determination shall be a negative rabies report from the Department laboratory, or a certificate signed by a veterinarian stating that the suspected animal is no longer showing symptoms of rabies.

D. Livestock shall be handled according to Department of Agriculture rule A.A.C. R3-2-408.

ARTICLE 7. VACCINE PREVENTABLE DISEASES

R9-6-701. Required Immunizations for School Attendance

A. No change.
1. No change.
~~8.~~2. No change.
3. Hepatitis B,
~~5.~~4. No change.
~~6.~~5. No change.
~~3.~~6. No change.
~~4.~~7. No change.
~~7.~~8. No change.
~~2.~~9. No change.

R9-6-706. Required Reports

A. No change.
1. No change.
2. No change.
3. No change.
4. The number of licensed child care centers, schools with pre-kindergarten, kindergarten, or if no kindergarten, 1st grade pupils, specifying the number of pupils admitted and the number of doses received per pupil of diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, ~~and~~ rubella, and hepatitis B vaccines. The number of doses of Hib vaccine shall also be reported for those students under age 5.

B. No change.
C. No change.
D. No change.
E. No change.
F. By November 30 of each year each operator of a licensed child care center, public school-based child care program, or pre-school shall submit a report to the county health department which shall include the following information:
1. No change.
2. No change.
3. The number of pupils who have received immunizations against diphtheria, tetanus, pertussis, poliomyelitis, measles (rubeola), rubella (German measles), mumps, Hib, and hepatitis B, and the number of doses of each vaccine or immunizing agent that have been received.

G. No change.
H. A health care professional licensed under A.R.S. Title 32 shall report all immunizations administered to children to the Department in accordance with A.R.S. § 36-135.
I. Information submitted in accordance with A.R.S. § 36-135(C) shall be furnished as follows:
1. If using the mail or fax, only forms supplied by the Department shall be used, which must be fully completed before submission.
2. If using the telephone, all required information must be reported during regular business hours to a telephone number provided by the Department for this purpose.
3. If using the computer, an enrollment process must be completed with ASIIS to certify that the computer system meets the technical specifications defined by ASIIS.
   a. Computer reporting may be performed electronically via a modem connection to the ASIIS Gateway or by submission to the Department of a 3½" diskette with the required information.
   b. Any computer reporting from systems other than those provided by ASIIS must provide all the required information in an American Standard Character Information Interchange delimited format.

J. A physician or an authorized designee, shall submit a written report to the Department of all patients who receive post-exposure rabies prophylaxis. The report shall include:
1. Name, age, address, and telephone number of the person exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.

R9-6-707. **Release of Immunization Information**

In addition to those persons identified in A.R.S. § 36-135(D) who have access to immunization information, and according to the limitations defined in subsections (E) and (H), the Department may also release such information to the following:

1. Authorized representatives of state or local health departments for the control, investigation, analysis or follow-up of disease;
2. A child care operator who has registered with ASIIS to determinethe immunization status of a child in the care of the operator.

Table 1

Immunization Requirements for Child Care and School Enrollment

Age at Enrollment	Number of Doses Vaccine Required	Special Notes
<2 months	~~None~~1 HBV	*(See Note 4)*
2- 3 months	1 DTP, DTaP or DT 1 OPV or IPV 1 Hib 1 HBV	*(See Note 4)*
4- 5 months	2 DTP, DTaP or DT 2 OPV or IPV 2 Hib 2 HBV	*(See Note 4)*
6-~~14~~11 months	3 DTP, DTaP or DT 2 OPV or IPV 3 Hib 3 HBV	~~*(See Note a)*~~ *(See Note b for infants 7 months and older.)* *(See Note 4)*
~~15-17~~12-14 months	3 DTP, DTaP or DT 3 OPV or IPV 1-4 Hib 1 MMR 3 HBV	~~*(See Note 1)*~~ *(See Note 2)* *(See Note)* *(See Note 4)*
~~18~~15 months to 4 years	4 DTP, DTaP or DT 3 OPV or IPV 1-4 Hib 1 MMR 3 HBV	~~*(See Note 1)*~~ *(See Note 2)* *(See Note 3)* *(See Note 4)*
4- 6 years (School entry)	4 DTP, DTaP or DT	0. but...One additional dose if the ~~last~~4th dose was received before the 4th birthday.
	3 OPV or IPV	~~*but...One additional dose if the last dose was received before the 4th birthday.(see Note 1)*~~
	~~1~~ 2 MMR	*(See Note 3)*
	3 HBV	*(See Note 4)* For kindergarten and 1st grade entry only.
7 years or older (Minimum needed if documentation of vaccinations are incomplete or not available)	4 DTP, DTaP or any combination of DTP /DT/ Td	but...One additional dose if the ~~last~~4th dose was received before the 4th birthday. One Td booster 10 years after the last dose. For children beginning the series on or after age 7 only 3 doses of diphtheria-tetanus containing vaccine are required.
	3 OPV or IPV	~~but...One additional dose required if the third dose was received before the 4th birthday.(see Note 1)~~
	1 MMR	*(See Note 3)* A 2nd dose is recommended but not required.
	3 HBV	*(See Note 4)* For kindergarten and 1st grade entry only.

a. [1]~~If IPV or a combination of IPV and OPV is used, 1 additional dose is required.~~ An additional dose of OPV or IPV is required for school entry if the 3rd dose was received before the 4th birthday.

[2]The 3 dose Hib series shall be received at 2, 4, and 6 months of age, with a booster dose at age 15 months. Infants now age 3 months up to age 7 months who did not receive the Hib series on schedule shall also receive ~~four~~4 doses, 1 before admission, the next ~~two~~2 spaced 2 months apart, and a booster dose at age 15 months. Previously unvaccinated infants now 7 to 11 months old shall receive ~~three~~3 doses, the 2nd two months after the 1st, and a booster dose at age 15 months. Previously unvaccinated infants now 12 to 14 months old shall have ~~one~~1 dose now and a booster dose at least 2 months later but not before age 15 months. Previously unvaccinated children 15 to 60 months shall receive a single dose and do not require a booster.

[3]Individual~~ly~~ antigens or as combined MMR vaccine on or after age 12 months. ~~*Recommended on or after age 15 months.*~~

[4]The 2nd dose shall be received at least 4 weeks after the 1st and the 3rd dose shall be received at least 2-5 months after the 2nd dose as long as the child is at least 6 months of age.

b.

As authorized by A.R.S. § 15-873, exemptions to immunization may be requested by the parent for personal reasons or granted for medical reasons by a child's healthcare provider on either a temporary or permanent basis. Parents must request a form from the school and submit the completed form with the required signatures to the school.

Table 2

Recommended Schedule for Pupils Starting Immunization after School Enrollment

Vaccine	Dose	Time Intervals
1. ~~DPT~~DTP - Diphtheria, Tetanus and Pertussis		
a. *For Pupils Under Age 7 Years:* DTP or any combination of DTP, DTaP and DT	1st	Before admission.
	2nd	If 4 weeks have passed since the 1st dose, the 2nd dose shall be received prior to admission.
	3rd	If 4 weeks have passed since the 2nd dose, the 3rd dose shall be received prior to admission.
	4th	If 6 months have passed since the 3rd dose, the 4th dose shall be received prior to admission.
	5th or more	If the 4th dose was received before the 4th birthday, 1 additional dose shall be received prior to admission. If the 4th dose was received after the 4th birthday, the next dose (Td) shall be required 10 years after that dose.
b. *For Pupils Age 7 Years and Older:* Td - Tetanus Diphtheria *(Pertussis not required)*	1st	Before admission.
	2nd	If 4 weeks have passed since the 1st dose, the 2nd dose shall be received prior to admission.
	3rd	If 6 months have passed since the 2nd dose, the 3rd dose shall be received prior to admission. If a 3rd dose of DTP was received after the 4th birthday, a booster dose of Td shall be required 10 years after that dose.
2. OPV or IPV - Polio *(See Note [a] below.)*	1st	Before admission.

	2nd	If 6 weeks have passed since the 1st dose, the 2nd dose shall be received prior to admission.
	3rd	~~If 6 months have passed since the 2nd dose, the 3rd dose shall be received prior to admission. If the 3rd dose was received after the 4th birthday, no additional doses will be needed.~~For children receiving all IPV, if 6 months have passed since the 2nd dose, the 3rd dose shall be received prior to admission. For children receiving all OPV, if 6 weeks have passed since the 2nd dose, the 3rd dose shall be received prior to admission. For children receiving a combination of IPV and OPV, (2 doses of IPV followed by 2 doses of OPV) if 4 weeks have passed since the 2nd dose of IPV,OPV shall be received as the 3rd dose prior to admission.
3. **MMR - Measles, Mumps, Rubella**	1 ~~only~~st	Before admission for all pupils, *12 months of age or older.* ~~Recommended on or after 15 months of age.~~
	~~Additional~~ 2nd~~Dose~~	~~Before admission, if~~ If 1 month has passed since the 1st dose was received ~~*prior* to 12 months of age,~~the 2nd dose shall be received prior to admission for kindergarten and 1st grade entry only.
4. **Hib - *Haemophilus influenzae* type b** *(See Note [b] below.)*	1	Before Admission, if under age 5. *Not required after age 5.*
5. **HBV - Hepatitis B** *Kindergarten and 1st grade only*	1st	Before Admission.
	2nd	If 4 weeks have passed since the 1st dose, the 2nd dose shall be received prior to admission.
	3rd	If at least 2 months have passed since the 2nd dose, the 3rd dose shall be received prior to admission.

a. [1] ~~If IPV or a combination of IPV and OPV is used, the 2nd dose shall be received no later than 10 weeks, after the 1st dose, the 3r dose shall be received no later than 10 weeks after the 2nd dose, and the 4th dose shall be required 6 to 12 months after the 3rd dose~~ At kindergarten level and above, 1 ~~or~~ more doses shall be required if the ~~4th~~3rd dose was received before the 4th birthday. Call th Department or local health agency for further clarification if necessary.

b. [2] The 3 dose Hib series shall be received at 2, 4, and 6 months of age, with a booster dose at age 15 months. Infants now age 3 month up to age 7 months who did not receive the Hib series on schedule shall also receive 4 doses, 1 before admission, the next two space 2 months apart, and a booster dose at age 15 months. Previously unvaccinated infants now 7 to 11 months old shall receive 3 doses the 2nd two months after the 1st, and a booster dose at age 15 months. Previously unvaccinated infants now 12 to 14 months old shal have 1 dose now and a booster dose at least 2 months later but not before age 15 months. Previously unvaccinated children 15 to 6 months shall receive a single dose and do not require a booster.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION

PREAMBLE

1. Sections Affected / Rulemaking Action

Sections Affected	Rulemaking Action
Article 3	New Article
R9-8-301	New Section
R9-8-302	New Section
R9-8-303	New Section
R9-8-304	New Section
R9-8-305	New Section
R9-8-306	New Section
R9-8-307	New Section
R9-8-308	New Section
Article 11	Repeal
R9-8-1111	Repeal

2. The specific authority for the rulemaking, including both the authorizing statue (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-104(1)(b)(i) and 36-136(H)(12)

3. Effective date of the rule:

April 10, 1997

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening:
2 A.A.R. 3802, August 30, 1996

Notice of Proposed Rulemaking:
2 A.A.R. 4008, September 20, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Richard Cox, Rules Specialist

Address: Department of Health Services
Food Safety and Environmental Services
3815 North Black Canyon Highway
Phoenix, Arizona 85015

Telephone: (602) 230-5908

Fax: (602) 230-5817

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rule amendments were intiated as a result of a 5-year rule review as approved by the Governor's Regulatory Review Council on March 5, 1996. The amendments contain stylistic and grammatical changes to conform with current Governor's Regulatory Review Council and Office of the Secretary of State requirements. The only substantive new Sections are R9-8-304 and R9-8-306, which contain provisions for the minimum number of portable toilets and refuse containers at public events where no permanent toilet facilities are available. These new rules are necessary because the Department currently has no rules that require sanitary facilities at a special event.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business and consumer impact:

A. Persons/institutions who are directly affected, bear costs or benefits:

1. Organizers of special events: approximately $65 per 8-hour day per portable toilet; approximately $5 per day per each disposable refuse container, approximately $35 per each reusable refuse container if reusable refuse containers are purchased, approximately $50 rental charge for a 40 cubic yard receptacle to store full refuse bags until they are hauled to a sanitary landfill, approximately $200 for hauling charges to haul collected refuse to a sanitary landfill, and $25-$30 per ton of refuse for sanitary landfill disposal.

2. Owners of public toilet facilities: Costs will vary depending on the size of restroom or bathroom installed and the architecture and occupancy of the building, for example, 1-story, multi-story, or shopping mall types of architecture; the grade of light fixtures and sanitary fixtures installed, and type of decorative finish. For a new construction, the estimated cost of compliance with the rules ranges from $5,000 for a small restroom or bathroom to $20,000 for a large restroom or bathroom. The nominal yearly cost incurred by owners of restrooms and bathrooms is the cost of maintenance, due to the fact that the majority of local jurisdictions already require compliance with the building code during construction.

3. Department of Health Services: Responsible for occasional enforcement of temporary toilet requirements at special events and occasional investigation and abatement of nuisances caused by public restrooms.

4. County health departments: Responsible for investigation and abatement of public nuisances caused by public toilet facilities through delegation agreements with the Department of Health Services.

5. The public benefits from clean and sanitary restrooms and temporary toilets, and the environment benefits by the proper disposal of sewage and refuse generated at special events.

B. Cost/benefit analysis

1. Department of Health Services: Minimal. There will be no increase in investigation or enforcement responsibilities. Therefore the Department will not be impacted by the adopted rules.

2. Governor's Regulatory Review Council: Minimal. GRRC will incur some costs in reviewing and approving the rule package.

3. Office of the Secretary of State: Minimal. The Secretary of State will incur some costs in reviewing and publishing the rule package.

4. Political subdivisions: Minimal. The rules do not require county health department to conduct routine inspections of public toilet facilities. However, county health departments usually prefer to station personnel on-site at special events to inspect food service operations and general sanitation. The rules give county health departments the authority to require maintenance of public restrooms and bathrooms and abate a public nuisance caused by public toilet facilities, and the authority to require a minimum number of portable toilets at special events, and abate a public nuisance at a special event where adequate toilet facilities are not provided.

5. Small businesses: Minimal to moderate. Organizers of special events would pay approximately $65 per 8-hour day per portable toilet; approximately $5 per day per each disposable refuse container, approximately $35 per each reusable refuse container if reusable refuse containers are purchased, approximately $50 rental charge for a 40 cubic yard receptacle to store full refuse bags until they are hauled to a sanitary landfill, approximately $200 for hauling charges to haul collected refuse to a sanitary landfill, and $25-$30 per ton of refuse for sanitary landfill disposal. Owners of restrooms and bathrooms are already required to comply with local building codes in many jurisdictions. Owners of restrooms and bathrooms are responsible for maintenance and upkeep which will cost them an estimated amount of $1,000 to $5,000 per year.

6. Private and public employment: None.

7. Consumers and public: Consumers and public will benefit from sanitary public restrooms and bathrooms and sanitary toilets at special events.

8. State revenues: None.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
No substantive changes have been made in the text of the adopted rules from that in the proposed rules. Numerous grammatical, stylistic, and verbiage changes have been made to make the rules more clear, concise, and understandable.

10. **A summary of the principal comments and the agency response to them:**
One written comment was received from the Arizona Office for Americans with Disabilities (AOAD). The AOAD comment stated that the requirement for the location of a toilet paper dispenser in the proposed rules conflicted with AOAD rules. As a result, the requirement for a toilet paper dispenser to be located within 36 inches of a toilet seat in the proposed rules was deleted in the adopted rules.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.

12. **Incorporations by reference and their location in the rules:**
None.

13. **Was this rule previously adopted as an emergency rule?**
No

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION

ARTICLE 3. PUBLIC TOILET FACILITIES

Section

~~ARTICLE 11. RESTROOMS~~

ARTICLE 3. PUBLIC TOILET FACILITIES

R9-8-301. Definitions

In this Article:

1. "Bathroom" means a restroom that contains a shower or bathtub.
2. "Department" means the Department of Health Services.
3. "Director" means the Director of the Department of Health Services.
4. "Flooded" means a sanitary fixture that is overflowing sewage or filled with sewage to the point of overflowing.
5. "Lavatory" means a sink or basin for cleansing hands.
6. "Person" means a governmental agency, individual, organization, association, partnership, business, corporation, or company.
7. "Plumbing system" means sanitary fixtures, pipes, and related parts assembled to carry water into a structure and carry sewage out of a structure.
8. "Portable toilet" means a transportable toilet connected to a leakproof tank to receive and store sewage temporarily.
9. "Potable" means water obtained from a source or distribution system that complies with the requirements of the Department of Environmental Quality as provided in 18 A.A.C. 4.
10. "Putrescible waste" means a solid or semisolid waste material that is likely to decompose, decay, spoil, rot, or provide food for insects, rodents, birds, or other pests.
11. "Refuse" means putrescible and nonputrescible solid and semisolid waste, including trash, garbage, or rubbish.
12. "Restroom" means a structure or room containing a lavatory and toilet, or lavatory, toilet, and urinal, available to a guest or customer of a business or governmental agency, and unconnected to dwelling or sleeping quarters.
13. "Sanitary fixture" means a bathtub, floor drain, lavatory, shower, toilet, or urinal connected to a plumbing system.
14. "Sewage" means the liquid waste contained in a sanitary fixture or sanitary fixture drain pipe or any liquid containing putrescible particles, feces, or urine.
15. "Special event" means a group of 100 or more individuals gathered together in lawful assembly for 4 or more hours in an outdoor area that does not have restroom or bathroom facilities.
16. "Urinal" means an upright basin used by males for urination only.

R9-8-302. Persons Responsible

An owner of a bathroom, restroom, or portable toilet, or a person who administers a special event, shall comply with the provisions of this Article.

R9-8-303. Constructing and Maintaining a Restroom or Bathroom

A. A plumbing system shall be installed and maintained according to the standards contained in A.A.C. R9-1-412(A)(3), the "Uniform Plumbing Code."
B. Ventilation in a restroom or bathroom shall be provided according to the standards contained in A.A.C. R9-1-412(A)(1), the "Uniform Building Code."
C. An interior floor, wall, ceiling, and the attached accessories in a restroom shall be kept clean, dry, and free of mold, holes, chips, cracks, or flaking. An interior restroom floor and wall joint shall be finished with a smooth sealant or trimmed with a wall base trim strip.
D. An interior floor, wall, ceiling, and the attached accessories in a bathroom shall be finished with a smooth, waterproof, and washable surface. An interior bathroom floor and wall joint shall be waterproof.
E. A bathroom or restroom shall be provided with:
   1. Soap that is dispensed from a soap dispenser;
   2. A heated air blower or paper towels from a paper towel dispenser; and
   3. A constant supply of toilet paper from a toilet paper dispenser in each toilet.
F. If a pressurized spray cleaning method is used in a bathroom or restroom:
   1. A floor drain shall be built into the floor and the floor shall be sloped to the floor drain to promote drainage, and
   2. The interior floor and wall joints shall be waterproof.
G. The following conditions in a bathroom or restroom are prohibited:
   1. An open window without an insect screen,
   2. A sanitary fixture without potable water under pressure,
   3. A plumbing system leak,
   4. A dirty sanitary fixture, and
   5. A flooded sanitary fixture.

R9-8-304. Constructing and Maintaining a Portable Toilet

A portable toilet shall be built and maintained to include:

1. A sewage storage tank, toilet seat, toilet, and urinal made of durable, smooth, leakproof, and rustproof materials;
2. Waterproof and durable floor, wall, ceiling, and door materials;
3. A vent pipe 3 inches in diameter connected to the sewage storage tank and extending 6 inches above the roof of the toilet enclosure; and
4. A constant supply of toilet paper from a toilet paper dispenser.

R9-8-305. Common Bath Towel Prohibited
A cloth towel provided by a business for a guest or customer to use at the business shall be machine washed with detergent and machine dried before the cloth towel is issued to another guest or customer.

R9-8-306. Special Events
A. Portable toilets and refuse containers shall be deployed at a special event as follows:
1. One portable toilet for the 1st 100 people, and 1 portable toilet for each additional 100 people, or portion thereof;
2. One refuse container for the 1st 100 people, and 1 refuse container for each additional 100 people, or portion thereof; and
3. Within 200 feet of the special event place.
B. Sewage and refuse generated at a special event shall be collected and disposed of under R9-8-307(A), (B), (C), and (E).

R9-8-307. Disposal of Sewage and Refuse
A. The collection, storage, and treatment of sewage and refuse shall comply with the requirements of the Department of Environmental Quality under:
1. 18 A.A.C. 8, Article 6, and 18 A.A.C. 9, Articles 7 and 8, for sewage; and
2. 18 A.A.C. 8, Article 5, for refuse.
B. A disposable refuse bag shall be used to store refuse generated at a special event. A full refuse bag shall be tied closed before disposal in accordance with subsection (A).
C. A refuse container in a bathroom or restroom, or at a special event, shall be free of accumulations of putrescible waste.
D. A bathroom or restroom exclusively for female use, or a combination male-and-female use restroom shall be provided with a refuse container with a matching lid.
E. An overflowing refuse container in a bathroom or restroom, or at a special event, is prohibited.

R9-8-307. Inspection and Enforcement
A. An owner of a restroom, bathroom, or portable toilet, or a person who administers a special event, shall allow an inspector from the state or local health department to enter into and inspect the premises for compliance with this Article. An inspector from the state or local heath department shall display a state or local agency identification credential before conducting an inspection.
B. If an inspector finds a violation of this Article, the inspector may issue a notice of violation to the owner of a bathroom, restroom, or portable toilet, or the administrator of a special event. A notice of violation shall specifically state the nature of the violation and allow a reasonable time for the violation to be corrected.
C. If the Director has reasonable cause to believe that a person is operating a bathroom, restroom, portable toilet, or special event in violation of this Article, the Director shall order the closure of the bathroom, restroom, portable toilet, or special event by issuing a cease and desist order under A.R.S. § 36-601. Violations of this Article may also be corrected under A.R.S. §§ 36-140, 36-602, 36-603, 36-605, or by any other lawful means.

~~ARTICLE 11. RESTROOMS~~

~~R9-8-1111. Toilet Facilities~~
~~All toilet facilities which are made available for use of employees or patrons of the establishment or for the use of the general public shall comply with the following requirements:~~
~~1. The pressure and volume shall be sufficient to insure effective flushing of toilets and urinals.~~
~~2. Toilets are urinals shall be constructed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not easily corrodible, shall be of rim flush type, and shall be properly vented and trapped. All joints shall be tight. The construction shall be such as to prevent back siphonage of the toilet or urinal contents and to provide ample flushing action to insure cleanliness. All toilets and urinals shall be kept clean and in good repair.~~
~~3. All toilets and urinals shall be located in well lighted and well ventilated rooms and shall be conveniently accessible to approved hand washing facilities. All toilet rooms shall be kept clean and in good repair and provided with an adequate supply of toilet paper.~~
~~4. Hand washing facilities shall comply with the following requirements:~~
~~a. The lavoratory shall be composed of vitreous or other approved material, the surface of which is smooth, hard, impervious, and not readily corrible. Taps connected with said lavatory shall be so installed as to discharge at least 1 inch above the level at which the lavatory will overflow upon the floor.~~
~~b. The water supply used in connection with a lavatory shall comply with the requirements of Article 2 of this Chapter.~~
~~c. Soap in a suitable dispensing container and single service paper towels or some other approved form of individual towel service shall be provided.~~

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 26. COUNCIL FOR THE HEARING IMPAIRED

PREAMBLE

1. Sections Affected / Rulemaking Action

Sections Affected	Rulemaking Action
Article 5	New Article
R9-26-501	New Section
R9-26-502	New Section
R9-26-503	New Section
R9-26-504	New Section
R9-26-505	New Section
R9-26-506	New Section
R9-26-507	New Section
R9-26-508	New Section
R9-26-509	New Section
R9-26-510	New Section
R9-26-511	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-1976(A)

Implementing statutes: A.R.S. §§ 36-1946(A) and 12-242

3. The effective date of the rules:

April 4, 1997

4. A list of all previous notices appearing in the *Register* addressing the final rule:

Notice of Rulemaking Docket Opening:
2 A.A.R. 3043, May 31, 1996

Notice of Rulemaking Advisory Committee:
2 A.A.R. 3979, September 13, 1996

Notice of Proposed Rulemaking:
2 A.A.R. 4394, November 1, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Stuart Brackney, Executive Director
Address:	Council for the Hearing Impaired 1400 West Washington, 1st Floor Phoenix, Arizona 85007
Telephone:	(602) 542-3323
Fax:	(602) 542-3380

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The adopted rules classify interpreters for deaf persons based on the level of interpreting skills acquired by that person. The adopted rules also establish standards and procedures for the qualification and certification of each classification of interpreters. The rules are necessary to comply with A.R.S. §§ 12-242 and 32-1946, which require the Council to issue certificates of competency to interpreters who have met the Council's qualifications. These rules are necessary so that courts, governmental entities, and law enforcement personnel can obtain qualified interpreters to provide services to a deaf party in a court, governmental, or law enforcement proceeding.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

With the adoption of these proposed rules, the Council will have moderate costs for rule consultant fees and printing of information. No fees will be charged by the Council for obtaining certificates of competency. The estimated costs to the Secretary of State is minimal for staff time and publishing the rules. The estimated costs to small businesses will be minimal (i.e. less than $500) to meet the qualifications to obtain a certificate of competency. The enforcement costs to courts, governmental entitities, and law enforcement personnel to contact the Council to determine who are qualified interpreters will be minimal. The benefit to small

businesses will be moderate to substantial because of the potential increase in work available to qualified interpreters. There also will be a benefit to consumers who require interpreter services, as they will be provided interpreters who are qualified to provide the needed services. The costs of adopting these rules is far outweighed by the benefits of having qualified interpreters for deaf parties, and by the benefits to small businesses who provide qualified interpreter services.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
No substantive changes were made between the adopted rules and the final rules, nor were any supplemental notices filed. The only changes made between the adopted and final rules were primarily to correct format and grammar.

10. A summary of the principal comments and the agency response to them:
Comment: Court personnel suggested that R9-26-501(12) regarding realtime reporting be amended to add something like "or equivalent technology" so that when voice recognition is available, it also can be used as an interpretation service.

Response: However, this technology is not yet available, and a rule cannot be written specifically enough to set forth the qualifications and competency of this technology. When this technology is available and more is known about it, the rule could be amended to add it.

Comment: Court personnel suggested that the 4th line in R9-26-501(16) be changed from "any person who requires communication assistance" to "any person who is observed by a court, a government entity, or law enforcement personnel, without an interpreter, to need communication assistance to effectively participate in the proceeding."

Response: This change was requested, and made, because the phrase "any person who requires communication assistance" was over broad.

Comment: It was suggested that "ASL" in R9-26-501(17) be changed to "American", to make this definition more accurate.

Response: The change was made.

Comment: Court personnel raised a question regarding R9-26-501(25), whether the definition of "party" included a juror.

Response: It does not because the authorizing statute (A.R.S. § 12-242) does not inlcuded juror in this definition.

Comment: Court personnel suggested that changes be made to R9-26-502(B) and (C) so that the responsibility of courts, government entitites, and law enforcement personnel for obtaining interpreters is not overly burdensome.

Response: Subsection (B)(1) was amended to "determine whether a party is a deaf person, either based on the party's request or on the observation of the court, government entities, or law enforcement personnel." Subsection (B)(2) was amended to "once a party is determined to be deaf, determine from the deaf person whether the deaf person..." Subsection (B)(5) was amended to "determine from the deaf person whether the qualified interpreter meets the deaf person's communication needs, at the outset of the proceeding or encounter, upon complaint by the deaf person, or by observation of the court, government entity, or law enforcement personnel." Subsection (C) was amended to "the deaf person may object to the qualified interpreter because the interpreter cannot meet the deaf person's communication needs. The court, government entity, or law enforcement personnel shall then appoint either an intermeidary interpreter to work with the qualified interpreter, or may provide another qualified interpreter that can meet the deaf person's communication needs."

Comment: It was suggested that 500 hours or oral interpreter services within the 3 years immediately preceding the date the applicant applied for certification is far too many hours. The concern is that this requirement may prohibit a lot of good oral interpreters from serving in state courts.

Response: R9-26-506(A)(1) was amended to reduce the number of hours of required oral interpreter services from 500 to 360 within the 3 years immediately preceding the application.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

12. Incorporations by reference and their location in the rules:
None.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 26. COUNCIL FOR THE HEARING IMPAIRED

ARTICLE 5. INTERPRETER CERTIFICATION

ARTICLE 5. INTERPRETER CERTIFICATION

R9-26-501. Definitions

The following definitions apply in this Article:

1. "Applicant" means an individual who submits a completed application, and documentation to the Council to obtain a certificate of competency.
2. "Application" means a form provided to applicants by the Council, requiring the following information:
   a. A photograph, measuring not less than 1 inch by 1 inch, of the applicant that was taken within 5 years of the date of filing the application;
   b. The applicant's full current name and any former names;
   c. The applicant's current address and telephone number;
   d. The applicant's social security number;
   e. Whether the applicant previously has applied for a certificate of competency;
   f. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant; and
   g. The documentation required by this Article.
3. "ASL" means American Sign Language, the visual language used by deaf persons in the United States to communicate.
4. "CDI" means a certified deaf interpreter certificate, a certification issued by RID, evidencing that the certificate holder is deaf or hard-of-hearing, and performs at or above RID standards for deaf interpreters, but provides interpretation services with a hearing qualified interpreter.
5. "Certificate of competency" means a certificate issued by the Council indicating that the certificate holder has met the criteria set forth in this Article for the provision of interpretation services to deaf persons in court proceedings, government entity proceedings, and law enforcement encounters.
6. "Certification" means a currently valid card issued by RID, with the word "certified", and the categories in which the cardholder is certified, listed under the cardholder's name.
7. "Certified copy" means having a copy of the original document notarized as being a true and accurate copy of the original.
8. "CI" means certificate of interpretation, issued by RID, evidencing that the certificate holder performs at or above RID standards for sign language interpreters who interpret between ASL and English in both sign-to-voice and voice-to-sign.
9. "Continuing legal education" means seminars sponsored by a bar association, law firm, law department, or government entity, at which attendance is not limited to members of the association, firm, department, or entity, and that constitute an organized program of learning, dealing with matters directly related to the practice of law, and following an agenda defined by written materials or exercises distributed as part of the program.
10. "Council" means the Council for the Hearing Impaired.
11. "Court" means a place where people are officially assembled for the administration of justice, including all proceedings before every Grand Jury, Municipal Court, Justice Court, Magistrate Court, Superior Court, Court of Appeals, and Supreme Court in Arizona.
12. "CRR" means a certified realtime reporter certification issued by the NCRA, reflecting that the certificate holder has the training, experience, skills, and equipment to provide realtime on-screen translation, with at least 96% accuracy, for a deaf person in a proceeding.
13. "CSC" means a comprehensive skills certificate issued by RID, evidencing that the certificate holder performs at or above RID standards for sign language interpreters who interpret between ASL and English, and convert spoken English to an English-based sign system, in both sign-to-voice and voice-to-sign.
14. "CT" means a certificate of transliteration issued by RID and evidencing that the certificate holder performs at or above RID standards for sign language interpreters who convert spoken or written English to an English-based sign system, in both sign- to-voice and voice-to-sign.
15. "Custody" means that a person in a law enforcement encounter is not free to leave.
16. "Deaf person" means a person who is impaired in processing linguistic information through hearing, including any person who has an average pure tone decibel loss greater than 20dB in the better ear, any person who requires communication assistance, or any person who is hard-of-hearing, regardless of whether they wear hearing aids.
17. "English-based sign system" means using conceptually accurate ASL signs in English syntax. This is distinguishable from finger spelling using the alphabet, and from ASL, which also uses Americans signs, but not necessarily in conceptually accurate English syntax.
18. "Executive Secretary" means the executive officer of the Council who is responsible for implementing the Council's programs and activities, under A.R.S. § 36-1942.
19. "Government entity" means any department, board, commission, agency, or licensing authority of Arizona, or a political subdivision of Arizona.
20. "Intermediary interpreter" means a person holding a CDI certificate, an RSC certificate, or any person that a deaf person chooses to assist with interpretation services between the deaf person and a qualified interpreter.
21. "Law enforcement encounter" means any situation where a deaf person is questioned, arrested, or taken into custody for any alleged violation of Arizona criminal law, by any law enforcement personnel.

22. "NCRA" means the National Court Reporters Association.
23. "OIC" means an oral interpretation certificate issued by RID, evidencing that the certificate holder performs at or above RID standards for oral interpreters.
24. "Oral Interpreter" means a person who mouths a spoken message so that a deaf person can accurately speech read and understand the intent of the spoken message, and who accurately verbalizes the message and intent of the deaf person's speech and mouth movements.
25. "Party" means a deaf person who is a parent of a juvenile, a witness, complainant, defendant, or attorney in a court proceeding; a deaf person who is a principal party of interest, or a witness in a government entity proceeding; or a deaf person who is a defendant, or a criminal suspect in a law enforcement encounter.
26. "Proceeding" means any civil, criminal, or grand jury proceeding; any government entity proceeding; or any law enforcement encounter.
27. "Qualified interpreter" means a person who has a certificate of competency issued by the Council, and who is a court reporter who provides realtime translation, a sign language interpreter, or an oral interpreter.
28. "Realtime translation" means a court reporter's computer-aided method of accurately and simultaneously translating and displaying spoken words, including punctuation, in live proceedings, within 5 seconds of steno type input, for a deaf person to read.
29. "RID" means Registry of Interpreters for the Deaf.
30. "RSC" means a reverse skills certificate, which is the prior name of a CDI, and is synonymous with CDI.
31. "SC:L" means specialist certificate: legal issued by RID, evidencing that the certificate holder performs at or above RID standards for interpreting in proceedings.
32. "Sign language interpreter" means a person who has a CI and CT, CSC, CDI, RSC, or SC:L certification from RID.
33. "Speech read" means determining what a person is saying by the person's mouth movements, body language, and the context of the conversation.
34. "Supervision" means that the supervising qualified interpreter has direct, in person contact with the interpreter that he or she is supervising, and provides orientation information to the supervisee about providing interpreter services in proceedings, observes the supervisee providing interpretation services in proceedings, has the supervisee observe the supervisor providing interpretation services in proceedings, and provides feedback to the supervisee about the supervisee's performance.

R9-26-502. Process for Obtaining Interpreters

A. The court, government entity, or law enforcement personnel responsible for obtaining a qualified interpreter in any proceeding where a deaf person is a party, shall follow the steps stated in subsection (B).

B. The court, government entity, or law enforcement personnel shall:
   1. Determine whether a party is a deaf person, either based on the party's request, or on the observation of the court, governmental entity, or law enforcement personnel;
   2. Once a party is determined to be deaf, determine from the deaf person whether the deaf person needs sign language interpretation, oral interpretation, court reporter realtime translation, or a combination of interpretation services;
   3. Determine, for sign language interpretation services, whether the deaf person needs ASL or an English-based sign system;
   4. Arrange for a qualified interpreter to provide interpretation services; and
   5. Determine from the deaf person whether the qualified interpreter meets the deaf person's communication needs at the outset of the proceeding or encounter, either upon complaint by the deaf person, or by observation of the court, government entity, or law enforcement personnel.

C. The deaf person may reject the qualified interpreter because the interpreter cannot meet the deaf person's communication needs. The court, government entity, or law enforcement personnel shall then appoint either an intermediary interpreter to work with the qualified interpreter or may provide another qualified interpreter that can meet the deaf person's communication needs.

R9-26-503. Sign Language Interpreter Certification

A. The Council shall issue a sign language interpreter certificate of competency to an applicant who files an application with the Council, and submits all of the following:
   1. A certified copy of the applicant's sign language interpreter RID certification;
   2. An affidavit signed by the applicant, and notarized, attesting that the applicant:
      a. Is a CI and CT, CSC, or SC:L certificate holder and has at least 2,000 hours of sign language interpreting experience within the 5 years immediately preceding the date of filing the affidavit with the Council, or is a CDI or RSC certificate holder and has at least 50 hours of sign language interpreting experience within the 5 years immediately preceding the date of filing the affidavit with the Council;
      b. Has ever been disciplined, or is currently the subject of any disciplinary action, in any jurisdiction or before RID relating to providing interpreting services or adhering to the RID Code of Ethics, set forth in subsection (C);
      c. Has ever been named, or is currently named, as a defendant in any law suit alleging the applicant was negligent in providing the applicant's interpreter services or alleging that the applicant violated the RID Code of Ethics, set forth in subsection (C);
      d. Follows the RID Code of Ethics, set forth in subsection (C), including the obligation to be absolutely neutral in all proceedings;
      e. Understands that the applicant shall ensure that the applicant's interpreting skills meet the deaf person's communication needs, and that failure to do so may be grounds for revocation of the applicant's certificate of competency;
      f. Understands that the applicant shall complete the continuing education requirements necessary to maintain current RID certification in the category or categories in which the Council issued the applicant's certificate of competency;
      g. Understands that the applicant shall complete at least 3 clock hours of continuing legal education every year in addition to RID continuing education requirements, shall maintain accurate records of compliance with this subsection, and shall produce the records upon the Council's request; and
      h. Understands that the applicant shall obtain RID SC:L certification by January 1, 2005.
   3. Documentation that the applicant has provided at least 20 hours of sign language interpretation services to a deaf person under the supervision of a qualified interpreter in proceedings.

B. After January 1, 2005, an RID SC:L certification shall be the only RID certification that shall satisfy subsection (A)(1).
C. Interpreters shall comply with the following RID Code of Ethics requirements:
1. Keep all interpreting assignment related information confidential;
2. Render the message to accurately convey the content and spirit of the speaker, using language that the deaf person readily understands;
3. Not counsel, advise, or interject personal opinions;
4. Accept assignments using discretion with regard to their skills, the setting, and the deaf person involved;
5. Request compensation for services in a professional and judicious manner;
6. Maintain high professional standards in providing services, including maintaining absolute neutrality in all proceedings; and
7. Further their knowledge and skills by participating in workshops, professional meetings, interacting with professional colleagues, and reading current literature.

R9-26-504. Temporary Sign Language Interpreter Certification

A. The Council shall issue a temporary sign language interpreter certificate of competency to an applicant, who holds a CI and CT, CSC, or CDI RID certification, to provide interpretation services in proceedings under the supervision of a qualified interpreter for 1 year. This applicant shall file an application with the Council, and submit the following:
1. A certified copy of the applicant's CI and CT, CSC, or CDI RID certification; and
2. The names and addresses of the applicant's qualified interpreter supervisors.
B. The temporary certificate of competency shall automatically expire 1 year after the date of issue. The temporary certificate holder shall provide 20 hours of sign language interpretation services during the year that the temporary certificate is valid. If the 20 hours are not obtained before the temporary certificate expires, the applicant shall apply for another temporary certificate.
C. Beginning January 1, 2005, the Council shall no longer issue temporary certificates of competency.

R9-26-505. Grandfathering Sign Language Interpreters

For up to 1 year after the effective date of these rules, the Council shall issue a certificate of competency to an applicant who is a sign language interpreter, files an application with the Council, and submits the following:
1. The information required in R9-26-503(A)(1) and (2)(b) through (h); and
2. Documentation that the applicant has provided at least 20 hours of sign language interpretation services in proceedings before January 1, 1997.

R9-26-506. Oral Interpreter Certification

A. The Council shall issue an oral interpreter certificate of competency to an applicant who files an application with the Council, and submits the following:
1. A certified copy of the applicant's RID OIC certification, or documentation indicating that the applicant has provided at least 360 hours of oral interpreter services within the 3 years immediately preceding the date the applicant filed the documentation with the Council;
2. The information required in R9-26-503(A)(2)(b), (c), (d), (e), (f), and (g); and
3. A statement on the applicant's affidavit that the applicant understands that the applicant shall obtain RID OIC certification by January 1, 2005, if not already obtained, and shall complete the continuing education requirements necessary to maintain curent RID certification.
B. After January 1, 2005, applicants for oral interpreter certificates of competency shall have an RID OIC certification to satisfy subsection (A)(1).

R9-26-507. Realtime Reporter Certification

A. The Council shall issue a realtime reporter certificate of competency to an applicant who files an application with the Council, and submits the following:
1. A certified copy of the applicant's Superior Court certification issued pursuant to A.R.S. § 12-222, and a notarized affidavit, signed by the applicant, attesting that the applicant has provided realtime translation in at least 2 trials in state or federal court; or
2. A certified copy of the applicant's NCRA Registered Professional Reporter, Registered Merit Reporter, or Registered Diplomate Reporter certification, and a notarized affidavit, signed by the applicant, attesting that the applicant has provided realtime translation in at least 2 trials in state or federal court; or
3. A certified copy of the applicant's CRR, and a notarized affidavit, signed by the applicant, attesting that the applicant follows the NCRA ethical requirements, set forth in subsection (C); and
4. A statement on the applicant's affidavit that the applicant shall obtain NCRA CRR certification by January 1, 2005, if not already obtained, and shall complete the continuing education requirements necessary to maintain current NCRA CRR certification.
B. After January 1, 2005, NCRA CRR certification shall be the only certification that shall satisfy subsection (A).
C. Realtime translators shall comply with the following NCRA Code of Professional Ethics, Section II: Realtime Reporter as Assistive Technology in Legal Proceeding requirements:
1. Explain, before beginning realtime reporting, who has hired the reporter, what is to be reported, and that the realtime is to be used as assistive technology, not as a verbatim record of the proceeding;
2. Determine, before beginning realtime reporting, who owns the residual computer file;
3. Keep all assistive, assignment-related information confidential;
4. Render as near a verbatim translation as possible, conveying the content and spirit of the speaker, using substitute language that is computer-translatable for the deaf person to understand, and using parentheticals to describe to the deaf person all sounds during the proceeding;
5. Maintain absolute neutrality in all proceedings, by not counseling, advising, or interjecting personal opinions;
6. Accept assignments using discretion with regard to their skills, the setting, the deaf person being assisted, and accurately assessing the reporter's qualifications for realtime translation;
7. Know how to operate the software and hardware being used, including being able to troubleshoot anticipated problems that occur with software and hardware;
8. Further their knowledge and skills by participating in workshops, professional meetings, interaction with professional colleagues, reading current literature, and achieving additional state or national realtime certifications; and
9. Save a hard copy or computer disk of the actual translation that the deaf person saw on screen. If the translation is saved on computer disk, it shall be in text, or American standard code for information interchange format.

10. In addition to the ethical requirements in subsections (C)(1) through (9), realtime reporters shall not simultaneously act in a dual capacity as a realtime reporter for the benefit of a deaf person, and the stenographer wo is recording the official verbatim record of the proceeding.

R9-26-508. Application Processing Procedures; Issuance; Denial

A. Within 15 calendar days of receiving an initial or renewal certificate of competency application of any type, the Council shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

B. An applicant with an incomplete package shall supply the missing information within 10 calendar days from the date of the notice. If the applicant fails to do so, the Council may close the file. An applicant whose file has been closed shall begin the application process anew.

C. Upon receipt of all missing information within 10 calendar days, the Council shall notify the applicant, in writing, that the application is complete.

D. The Council shall not process a certificate of competency application until the applicant has fully complied with the requirements of this Article.

E. The Council shall notify an applicant, in writing, whether the certificate of competency is granted or denied, no later than 30 calendar days after the postmark date of the notice advertising the applicant that the package is complete.

F. The Council may deny a certificate of competency for any of the following reasons:
1. Failure to provide complete documentation,
2. Providing false or misleading information, or
3. Failure to meet the requirements stated in this Article.

G. The notice of denial shall include the following:
1. Reasons for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to request reconsideration pursuant to subsection (H); and
3. The name and telephone number of an agency contact person who can answer questions regarding the application process.

H. The following time frames shall apply for initial and renewal certificate of competency applications:
1. Administrative completeness review time frame: 15 calendar days.
2. Substantive review time frame: 30 calendar days;
3. Overall time frame: 45 calendar days.

I. Within 15 calendar days of the mailing date of the Council's notice of denial, the applicant may submit a request for reconsideration to the Council, setting forth the facts that justify reconsideration of the denial. The Council shall review all documentation, and interview any person with information relevant to issuing or denying the applicant's certificate.

J. Within 10 calendar days of receiving the applicant's request for reconsideration, the Council shall notify the applicant, in writing, whether the denial is upheld. If a denial is upheld, the Council's notice upholding the denial shall include the following:
1. Reasons for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to appeal the denial, including the number of days in which the applicant has to file a request for hearing to challenge the denial, and the right to request an informal settlement conference pursuant to A.R.S. § 41-1092.06;
3. The name and telephone number of an agency contact person who can answer questions regarding the appeal process.

K. An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

R9-26-509. Certification Renewal

Certification of competency holders shall renew their certificates on or before January 1 of every year. If January 1 is a Saturday, Sunday, or legal holiday, the renewal deadline is the 1st business day following the Saturday, Sunday, or legal holiday. To renew certificates of competency, the certificate holder shall file all the following documentation with the Council:

1. A certified copy of the certificate holder's current RID, or NCRA, certification;
2. A notarized affidavit, signed by the certificate holder, attesting that since the Council issued the certificate, whther the certificate holder:
   a. Has been disciplined or is currently the subject of any disciplinary action in any jurisdiction, or before RID or NCRA, as applicable, relating to providing interpretation or realtime reporting services, respectively, or adhering to the RID or NCRA ethical requirements of R9-26-503(C) or R9-26-507(C), respectively;
   b. Has been named as a defendant in any law suit alleging that the certificate holder was negligent in providing interpretation services, or alleging the certificate holder violated the RID ethical requirements of R9-26-503(C), or alleging the certificate holder was negligent in providing realtime reporting services, or alleging the certificate holder violated the NCRA ethical requirements of R9-26-507(C);
   c. Follows the RID ethical requirements of A.A.C. R9-26-503(C), or NCRA ethical requirements of A.A.C. R9-26-507(C), as applicable;
   d. Understands that it is the certificate holder's duty to ensure that the certificate holder's interpreting, or translating, skills meet the deaf person's communication needs, and that failure to do so may be grounds for revocation of the certificate holder's certificate of competency;
   e. Has completed the requirements necessary to maintain RID, or NCRA certification and understands the certificate holder shall continue to maintain current RID, or NCRA certification;
   f. Has completed at least 3 clock hours of continuing legal education since the effective date, or the last renewal date of the certificate of competency, whichever is more recent; and
   g. Has maintained accurate records of compliance with the continuing legal education requirements of this Article, and shall make these records available for examination upon this Council's request.
3. The certificate holder's current name, address, and telephone number.

R9-26-510. Certification Revocation

A. The Council may revoke a certificate of competency based on a complaint form any person alleging any of the following reasons:
1. The certificate holder falsified any application or renewal information; or

2. The certificate holder has violated the RID or NCRA ethical requirements of A.A.C. R9-26-503(C) or A.A.C. R9-26-507(C), respectively.

B. A complaint alleging any of the reasons for revocation shall be in writing, with the name, address, telephone number, and signature of the person filing the complaint. A complaint may be written by someone on behalf of the complainant, but also shall include the complainant's name, address, telephone number, and signature, indicating that the complaint is filed by the complainant. A complaint may be videotaped, with the complainant signing the complaint, but also shall include the complainant's name, address, and telephone number.

C. Within 20 calendar days of receiving a complaint, the Council shall mail the complaint to the certificate holder, and request the certificate holder to respond.

D. The certificate holder shall file a written response to the complaint with the Council, in writing, within 20 calendar days of the date that the complaint was mailed to the certificate holder.

E. The Council shall investigate the complaint and either dismiss the complaint, or send the matter to a formal hearing, within 60 calendar days of receiving the complaint. If no grounds are found to support the complaint, the Council shall dismiss the complaint.

F. If the complaint is sent to a formal hearing, the hearing shall be conducted pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10. A party to the hearing has an opportunity for rehearing or review, and judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 12, Article 6.

R9-26-511. Rehearing or Review of Decisions

A. If a party to an appealable agency action or contested case files a Motion for Rehearing or Review with the Council, it shall be filed not later than 30 calendar days after service of the decision, and shall specify the particular grounds for the motion. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party's last known residence or place of business.

B. A rehearing or review may only be granted for any of the following causes materially affecting the moving party's rights, or ability to receive a fair hearing:

1. Any irregularity in the administrative hearing, any order or abuse of discretion by the administrative law judge or the Council;
2. Misconduct of the Council, or the administrative law judge, or prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. A decision which is not justified by the evidence or is contrary to law.

C. Not later than 15 calendar days after the Council's receipt of a motion for rehearing or review, the Council may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Council may grant a rehearing or review for a reason not stated in the party's motion. An order modifying a decision or granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.

D. Not later than 15 calendar days after a decision is rendered, the Council may on its own initiative order a rehearing or review for any of the reasons stated in subsection (B), after giving the parties or their counsel notice and an opportunity to be heard.

E. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party shall have 10 calendar days from the date of service to serve opposing affidavits. This period may be extended by the Council for good cause up to 20 calendar days, or by written stipulation of the parties. If reply affidavits are permitted, they shall be served within 5 calendar days of service of the opposing affidavits.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

Sections Affected	Rulemaking Action
R12-4-422	Repeal
R12-4-422	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. § 17-238

3. The effective date of the rules:

April 4, 1997

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening:
1 A.A.R. 1560, September 8, 1995

Notice of Propoed Rulemaking:
2 A.A.R. 3272, July 5, 1996

Notice of Supplemental Proposed Rulemaking:
2 A.A.R. 4666, November 15, 1996

The date the record was closed: January 24, 1997

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Susan L. Alandar, Administrative Services Manager
Address:	Game and Fish Department DO AS 2221 West Greenway Road Phoenix, AZ 85023
Telephone:	(602) 789-3289
Fax:	(602) 789-3299

6. An explanation of the rule, including the agency's reasons for initiating the rule:

In response to a petition from the Arizona Falconers' Association, the Commission proposed to amend R12-4-422 to preclude issuance of a citation to falconers in the event of inadvertent kill of nontarget wildlife by a raptor. The rule was repealed and adopted in more understandable style and format, and provision also added to allow capture of raptors by nonresident falconers.

In addition, a Notice of Supplemental Proposed Rulemaking was published to made changes to conform to federal rules, as follows: raptors must be tethered or partititioned separately if within the same facility, even if of the same species. Captured Harris hawks, Gryfalcons, and Peregrine falcons must be presented to the Department for banding within 5 days of capture. Raptors may not be transferred to another licensee for temporary care for a period beyond 30 days.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

Impact on the Department will be minimal. No citations have ever been issued for inadvertent kill of nontarget wildlife by a falconer's raptor. Allowing capture of raptors by nonresident falconers will not increase or decrease costs to the Department or change management of wild raptors, as numbers which may be captured are limited by Commission order. There should be no impact on any other agency, political subdivision, business or the general public.

Impact related to the changes made by Notice of Supplemental Proposed Rulemaking will also be minimal. Commonly, falconers do not keep untethered birds together. Therefore it is not expected that more than 4 or 5 falconers would be affected by the provision prohibiting keeping untethered birds together. Cost to comply with this change would be $0-$50 per falconer, dependent upon materials used. There would be no cost or impact to the Department.

The requirement for banding certain species within 5 days will not create additional workload on the Department but will require some rearranging of existing schedules within regional offices where this service is conducted. It is estimated that about 20 of

these raptors are banded each year, and it takes about 15-30 minutes per raptor to accomplish this. Falconers will feel the burden of meeting this more restrictive schedule but it should not incur additional cost to them.

Restricting temporary care by another licensee to 30 days will impose an inconvenience on a falconer who is unable to care for a raptor after the 30 days. That falconer will need to find a different licensee to transfer to temporarily, or make a permanent transfer.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A "Notice of Supplemental Proposed Rulemaking" for this rule was published in the *Arizona Administrative Register* on November 15, 1996. This was in response to concerns pointed out by the U.S. Fish and Wildlife Service about the following inconsistencies between the rule and the federal rules governing falconry. Resulting language changes are as follows:

Subsection (H) was completely rewritten for nonsubstantive purposes but the substantive word change from the rule as originally proposed, and as shown in the Notice of Supplemental Proposed Rulemaking, was removal of the word "species". As proposed, the last sentence of subsection (H) (1) read as follows: *The licensee shall not keep more than 1 raptor species in the same facility unless each raptor species is tethered or separated by partitions.* As shown in the Notice of Supplemental Proposed Rulelmaking, the language was: *The licensee shall not keep more than 1 raptor in the same facility unless each raptor is tethered or separated by partitions.* As adopted, this provision now appears in subsection (H)(1)(e) as a requirement related to indoor facilities: *Tethers or partitions separating each raptor, if the licensee is keeping more than 1 raptor in the same facility.*

Subsection (J) (6) was changed from the proposed rule as follows (and as proposed in the Notice of Supplemental Proposed Rulemaking): The licensee shall present each captured Harris hawk, Gyrfalcon, or Peregrine falcon to the Department within 5 calendar days after capture. The licensee shall present each captured raptor ~~captured~~ of any other species to the Department within 14 calendar days after capture.

Subsection (P) was adopted as follows (and as proposed in the Notice of Supplemental Proposed Rulemaking): *A licensee may place a raptor or raptors in the care of another licensee for a period not to exceed 30 days, providing that the licensee gives written authorization to the other licensee for temporary care. ~~providing that the licensee gives written authorization to the other licensee for temporary care. If the period of care will exceed 30 days, the licensee shall submit the following written information to the Department within 3 days of the transfer:~~*

1. The location of the raptor or raptors.
2. The name of the licensee caring for the raptor or raptors.
3. Approximate number of days the raptor or raptors will be in the care of the other licensee.

At the direction of the Governor's Regulatory Review Council, subsection (P) of the adopted rule was changed as follows:

A licensee may place a raptor or raptors in temporary facilities, under the care of another licensee, for a period not to exceed 30 days, providing that the licensee gives written authorization to the other licensee for temporary care.

Nonsubstantive changes were also made. subsection (N) was proposed as follows: *Licensees may transfer raptors taken from the wild in Arizona to an Arizona resident's federal raptor propagation license with the concurrence of the U.S. Fish and Wildlife Service.* As adopted, it says: *Licensees may transfer raptors taken from the wild in Arizona to a federal raptor propagation licensee, with the concurrence of the U.S. Fish and Wildlife Service.* It was not necessary to contain the "Arizona resident" restriction in this subsection, as subsection (O) achieves the same regulatory objective.

Other changes related to style only were made at the suggestion of the staff of the Governor's Regulatory Review Council and are explained in detail in the concise explanatory statement issued at the time the rule was adopted.

10. A summary of the principal comments and the agency response to them:

1. **Argument.** Subsection (I)(1) should specify these are "almerie" type jesses.

   Evaluation. The agency sees no need to add this term, which is common only to falconers, into the rule. Using the term would require its definition; defining the term could create inadvertent and unnecessary restrictions. The rule as written allows the use of almerie jesses.

2. **Argument.** In subsection (J), add a paragraph (7) stating that "Persons applying for out of state take shall provide proof of reciprocity from their state with their application for a hunt permit-tag."

   Evaluation. Reciprocity is not a requirement of the rule, so there is no reason to require proof of reciprocity. Nor should it be a requirement. It would add additional burden to the falconer and the Department with no biological advantage to the resource.

3. **Argument.** In subsection (N), delete the phrase "Arizona resident's" from this subsection as it creates a prohibition against transferring raptors to U.S. federal raptor propagation permittees outside of Arizona. That restriction is not in the current rule and should not become part of the new rule.

   Evaluation. It is incorrect that this requirement does not exist in the repealed R12-4-422 (see subsection K of the repealed rule.) However, the restriction in the new rule can be removed, because the agency in subsection (O) achieves the same regulatory objective.

4. **Argument.** Goshawk permits should not be given out.

   Evaluation. Designating wildlife which may or may not be taken is a function of Commission order, not Commission rule. Commission orders are exempted from the rulemaking process by A.R.S. § 41-1005 (A) (2). Commission rule R12-4-609 ensures adequate public notice prior to the annual adoption of Commission orders. In addition, the Department takes written comments and holds annual public hearings during the development of its recommendations for Commission orders, and the Commission holds additional public hearings at the time of adoption. That would be the appropriate time and place for comments regarding issuance of permits to take specific wildlife.

5. **Argument.** I do keep untethered falconry birds together, namely Harris hawks. They are community birds and this is psychologically beneficial. It is easier to provide protected perches in the winter for multiple birds than for isolated birds. Dividing my 8' x 8' x 8' mews would result in each bird being more confined, to their disadvantage. Tethering the birds separately would reduce their effective space by another factor of 3. I do not want to have to subdivide 1 of my mews or add another structure to my back yard.

   Evaluation. The agency cannot by rule make a federal rule unenforceable. The state's rule must conform.

6. **Argument.** The Department should not change its rule but instead push for a change in the federal regulation. It makes no difference to the falconer if its in the state rule or not in that we must conform to the federal rule at present anyway.

   Evaluation. The agency does not believe this federal regulation is unreasonable or overly burdensome.

7. **Argument.** The minimum space requirements in the rule allow falconers to keep a bird in a space that allows the bird to spread its wings only. Perhaps the SPCA is not aware of this cruelty, a situation that easily can be corrected. Granted that I know of no falconer who maintains such an abominable situation (but) both USFWS and AGFD obviously consider it to be tolerable.

   Evaluation. The minimum space requirements have not been seen as a concern and there has never been a request to change them. It is also outside the scope of this rulemaking, but a petition may be filed pursuant to R12-4-601 by any person who wishes to request a rule change to address this.

8. **Argument.** I do not understand the reason for limiting an enclosure to a single bird. Obviously AGFD has not seen a need for this restriction. We may keep education and rehab birds together. Obviously everyone agrees that breeding birds may be housed together. So why make things difficult for the few falconers who want to house by species?

   Evaluation. The federal rules governing falconry make this requirement, and, as stated previously, it is necessary that the state rule not be less restrictive.

9. **Argument.** To replace my escaped falconry bird, I am obtaining a bird from a rehabilitator. The rehab birds can be kept together, so it appears my new bird can cohabit with my falconry bird, but my falconry bird cannot cohabit with the rehab bird. My use of falconry birds in presentations has been accepted for a long time. Is it possible that my female Harris hawk might enjoy dual citzenship, falconry and education?

   Evaluation. The Department does not license the wildlife, but the person in possession of wildlife. A rehabilitator is licensed under R12-4-423; a falconer is licensed under R12-4-422. The purpose, criteria, and requirements of these licenses are different. The fact that you will be obtaining a bird from a rehabilitator does not make you a licensed rehabilitator, and the requirements of R12-4-423 would not apply to you unless you became licensed under R12-4-423. In the event of dual licensing, your records and operations should reflect the license under which each raptor is possessed.

10. **Argument.** The change reducing the time period for banding captured raptors from 14 days to 5 days does not seem reasonable. I encourage you to keep the 14 days before presenting captured raptors to the Department for banding. This time is needed for several reasons.

    Evaluation. It is necessary that the state rule not be less restrictive than the Federal rule.

11. **Argument.** The rule should leave the decision for any extension of time for temporary care up to the Department. The decision to extend the time is a local affair and the decision should be kept home.

    Evaluation. It is necessary that the state rule conform to federal law.

12. **Argument.** There is no logical reason that 2 raptors of the same species be separated if there is no danger in housing them together. I believe the falconer is the best judge of whether this is appropriate for the birds he possesses. If this is a regulation designed to stop unlicensed breeding projects, there are other regulations already addressing this issue.

    Evaluation. As noted previously, the state's rule must conform with federal law. The agency cannot by state rule make a federal rule unenforceable.

13. **Argument.** Changes in the banding requirements will make state and federal regulations the same ending any confusion. The Department will need to ensure personnel are available to band the birds.

    Evaluation. Agreed.

14. **Argument.** In addition to changing banding requirements for Harris hawks, Gyrfalcons and Peregrine falcons, the Department should match the federal regulations in that other species do not need to be banded at all. It is a waste of Department

resources to be putting bands on species such as Redtail hawks, Coopers, Kestrels, etc. They are not threatened or uncommon species, they are available to all falconers, and will never be traded, bought or sold because of the ease in obtaining them from the wild. All these rules that are supposedly to protect the birds from this small group of individuals who wish to fly them need to be looked at hard from the perspective of whether we are writing the rules for the birds' protection or to have control over a group of people. A couple cases in point: Tucson Electric causes the death of at least 200 Harris hawks a year yet no government agency has stepped in to regulate them. We as falconers fought for 5 years to get the Goshawk back, finally this year we were granted permission to take 3 birds. In talking to biologists doing research on Goshawks we could have taken 100 and not impacted the population at all because all of the nests failed anyway. My point is that we as a small group have no significant impact on the status of these raptors, we are as interested as any group in their protection and feel we watchdog our own people to make sure falconry stays on the "up and up."

Evaluation. This argument raises several points which are outside the scope of this particular rule proposal. However, banding is just 1 part of the regulations surrounding falconry, and is necessary to enable identification of violations and enforcement of the rule. Further, it should be noted that all wildlife populations are subject to accidental kill. Raptors and other birds may be killed on electric lines; wildlife may also be killed on roads and highways; drought and other circumstances account for other losses. The fact that this happens is not a reason to give up management and protection of wildlife.

15. **Argument.** There are only a few people I would let care for my Goshawk, partly because of the special handling she requires and the climate she needs. It would not fare well in a hot climate (i.e. Phoenix, Tucson.) If I were to leave town for 6 months I should be able to leave this bird in the care of whomever I please. I know what is best for the raptor, not the Department, nor the federal government.

Evaluation. It is necessary that the state rule conform to the federal rule.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

12. Incorporations by reference and their location in the rules:
Subsection (U) of the proposed rule continues an incorporation by reference from subsection (V) of the repealed rule. This incorporation is the U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report Form 3-186A. This is not a change from the existing rule.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 4. LIVE WILDLIFE

~~R12-4-422.~~ ~~Falconer License~~
R12-4-422. Falconers: Licensing and Requirements

ARTICLE 4. LIVE WILDLIFE

~~R12-4-422. Falconer License~~

~~A. For the purposes of this rule, the following definitions apply:~~
~~1. "Eyas" means a flightless raptor that is dependent upon a parent bird for food, and is found in the nest.~~
~~2. "Falconry" means the sport of taking quarry by means of a trained raptor.~~
~~3. "Passage" means a raptor in immature plumage, capable of flight and able to hunt and obtain its own food, and which is less than 1 year of age.~~
~~4. "Raptor" means a live migratory bird of the species great horned owl, *Bubo virginianus*, of the family Strigidae; any of the family Falconidae; and any of the family Accipitridae, other than the bald eagle, *Haliaeetus leucocephalus*; which under the provisions of this rule may be used in the practice of falconry.~~
~~5. "Sponsor" means a licensed Class II or Class III falconer who agrees to supervise and instruct no more than 3 Class I falconers in the practice of falconry at any 1 time.~~

~~B. A falconer license allows the licensee to take, possess, transport and import raptors for falconry purposes in accordance with the requirements of this rule and Commission order. It also allows educational display of raptors, and allows raptors to be released, exported, and given away. Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by licensees only for purposes of repairing or replacing a broken feather with a feather.~~

~~C. A falconer license shall be issued only in accordance with the qualifications of the applicant established in Subsections D, E, and F of this rule, and shall be valid from the date issued until the 3rd December from the date of issue. The qualification specified on the license governs the species and number of birds which may be possessed, or which may be taken under the authority of that falconer license in accordance with the Commission order establishing raptor capture seasons. Any applicant not previously licensed in Arizona shall be subject to the following inspection by the Department prior to issuance of a license:~~
~~1. Raptor housing facilities shall be inspected by the Department and shall meet the standards set in subsection (L) of this rule before licensing by the Department.~~
~~2. Equipment shall also be inspected by the Department and shall meet the requirements set at subsection (M) of this rule before licensing by the Department.~~

~~D. A Class I Apprentice Falconer Classification requires the following:~~
~~1. In order to be eligible for this classification, the applicant:~~
~~a. Shall be 14 years of age or older.~~
~~b. Shall be sponsored by a licensed Class II or Class III falconer at time of application and for the 1st 2 years as a falconer.~~

c. Shall be required to answer correctly at least 80 percent of the questions on a supervised examination approved by the U.S. Fish and Wildlife Service and administered by the Department, relating to basic biology, care, and handling of raptors, literature, laws, or other appropriate subject matter.

2. A Class I falconer shall not possess more than 1 raptor at 1 time, nor obtain more than 1 raptor for replacement during any calendar year. The raptor must be taken from the wild. Within this limit, a Class I falconer may possess any raptor lawfully obtained in another state. A Class I falconer shall not take an eyas bird.

E. A Class II General Falconer Classification requires the following:

1. In order to be eligible for this classification, the applicant:
   a. Shall be at least 18 years of age.
   b. Shall have at least 2 years of falconry experience at the Class I level, computed from the date that the falconer obtained the 1st falconer license or permit as an apprentice.
   c. Shall present a letter of recommendation from a falconers association affiliated with the North American Falconers Association which states that the applicant is qualified and eligible to become a Class II falconer.
2. A Class II falconer shall not possess more than 2 raptors at 1 time. Raptors may be any species except a golden eagle or a species listed as endangered or threatened as defined in R12-4-401.
3. A Class II falconer shall not obtain more than 2 raptors for replacement during any calendar year.

F. A Class III Master Falconer Classification requires the following:

1. In order to be eligible for this classification, the applicant:
   a. Shall be at least 23 years of age.
   b. Shall have at least 5 years of falconry experience at the Class II level, computed from the date that the falconer obtained the 1st falconer license or permit as a Class II falconer.
2. A Class III falconer shall not possess more than 3 raptors at 1 time. Raptors may be of any species, except that prior written authorization from the Director of the U.S. Fish and Wildlife Service is required to possess golden eagles or species listed as endangered or threatened as defined in R12-4-401.
3. A Class III falconer shall not obtain more than 2 raptors taken from the wild during any calendar year, but may obtain raptors from other lawful sources within the 3 raptor possession limit.

G. Individuals who do not have an Arizona falconers license who have imported raptors or who have obtained their raptor other than from the wild shall submit the raptor to the Department for inspection at the time of application for their falconers license. Any new resident shall make application for an Arizona falconer license within 30 days of importing any raptor possessed pursuant to a falconer license issued by another state or jurisdiction.

H. Application for a falconer license shall be made on a form provided by and available from any Department office. Application requires the following be provided by the applicant:

1. Name, address and phone number.
2. Physical description and date of birth.
3. Valid Arizona hunting license number and Department identification number.
4. Falconer classification desired. Class I applicants shall supply their sponsor's name and address on this form.
5. The number of raptors the applicant possesses at the time the application is submitted and the species; age, if known; sex, if known; band numbers; date of acquisition; and source of each.
6. Signature of applicant.

I. The holder of a falconer license may capture raptors for the purpose of falconry only, in accordance with Commission order, subject to the following requirements and restrictions:

1. The falconer license and Arizona resident hunting license shall be in the possession of the licensee during capture.
2. Any nontarget raptor inadvertently captured shall be immediately released. If the raptor is wearing a band or other marker the licensee shall report the capture and release of the marked bird to the Department, along with any identifying number and related information.
3. It is unlawful to remove any immature or fledgling raptor from any nest, unless 1 or more live fledgling raptors remain in the nest after such removal.
4. Raptors may be captured only with traps or bird nets which are unlikely to cause injury to the raptor. No mist nets, steel-jawed traps, or stupefying substances shall be used.
5. All traps or nets in use shall be in constant attendance.
6. Any raptor trap or net being used shall be plainly identified with the licensee's name and address.

J. Each raptor captured shall be presented to the Department within 14 calendar days after capture. A Department representative shall attach a numbered band to 1 leg of the lawfully obtained raptor. This band may not be removed except by an authorized official of the Department, or except as provided in subsection (R) of this rule. Altering, counterfeiting or defacing of a band by a person is prohibited, except that licensees may remove the rear tab on the band and may smooth any imperfect surface provided the integrity of the band and numbering are not affected.

K. Birds taken from the wild in Arizona may, with the concurrence of the U.S. Fish and Wildlife Service, be transferred to an Arizona resident's federal raptor propagation license.

L. Before a license may be issued under the provisions of this rule, the applicant shall provide either an indoor or outdoor housing facility designed to protect the raptor from the environment, predators and undue disturbances. These facilities must be inspected and certified by a Department representative as meeting the following standards:

1. Indoor facilities shall be large enough to allow easy access for caring for the raptors housed in the facility. No more than 1 raptor species may be kept in the same facility unless each raptor is tethered or separated by partitions. The area for each bird will be large enough to allow the bird to fully extend its wings. There shall be at least 1 window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a door that can be easily closed and secured. The floor of the facility shall permit easy cleaning and shall be well drained. Perches shall be provided which are textured to prevent foot problems.
2. Outdoor facilities shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators, except that perches more than 6-1/2 feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from the sun, wind and inclement weather shall be provided for each bird. Perches shall be provided which are textured to prevent foot problems.

~~M. In addition to the facilities at subsection (L), the following equipment is required:~~
~~1. Jesses--at least 1 pair of jesses of a type wherein bracelets are affixed to each leg of a raptor with a grommet through which a strap passes freely so that an escaped bird can pull the strap out of the bracelet. The jesses shall be constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. Traditional 1-piece jesses may only be used on raptors when not being flown;~~
~~2. Leashes and swivels--at least 1 flexible, weather-resistant leash and 1 strong swivel of acceptable falconry design;~~
~~3. Bath container--at least 1 container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;~~
~~4. Outdoor perches--at least 1 weathering area perch of an acceptable design shall be provided for each raptor; and~~
~~5. Weighing device--a reliable scale or balance suitable for weighing the raptor or raptors held and graduated to increments of not more than ? ounce, or 15 grams.~~
~~N. The limitations of this rule shall not prohibit a person who possesses a lawfully taken raptor prior to January 1, 1977, from obtaining a license for that raptor. All such birds shall be identified with markers supplied by the U. S. Fish and Wildlife Service, and cannot be replaced if death, loss, release, or escape occurs.~~
~~O. A person who possesses raptors obtained before January 1, 1977, in excess of the number allowed under that person's class license, shall be allowed to retain the extra raptors. All such birds shall be identified with markers from the Department and supplied by the U.S. Fish and Wildlife Service. No replacement can occur, nor may an additional raptor be obtained, until the number in possession is at least 1 less than the total number authorized by the falconer classification held by the licensee pursuant to this rule.~~
~~P. No raptor taken from the wild in Arizona shall be transferred to another falconer licensed outside of Arizona or exported from the state, except by written authorization from the Department. Such transactions shall not involve more than 2 raptors, singly or in combination, per licensee in any calendar year. The Department may deny any request when the number or species which have been or are being exported is not in the best interest of raptor management.~~
~~Q. A licensee may place a raptor or raptors in the care of another, provided written authorization is given to the person for temporary care. If the period of care will exceed thirty days, the Department shall be informed of this action in writing by the licensee, within 3 days of the transfer. Written notification will include the location of the bird(s), who is caring for it, and approximately how many days it will be in the care of the 2nd person.~~
~~R. When a raptor is no longer used in the practice of falconry, it may be:~~
~~1. Released to the wild into suitable habitat, provided:~~
~~a. All jesses, markers and other equipment are removed.~~
~~b. Any federal marker is removed and returned to the Department within 10 days of the release.~~
~~c. A licensee shall not release to the wild any raptor not taken from the wild in Arizona.~~
~~2. Given to another licensed falconer, except pursuant to subsection (P).~~
~~3. Transferred to the Department.~~
~~4. Lawfully possessed captive-bred raptors marked with seamless leg bands may be sold or traded.~~
~~S. A licensee changing residence to another jurisdiction may export their lawfully possessed raptors.~~
~~T. When a raptor has died, the carcass shall be transferred to a Department office or destroyed, provided any federal markers are removed and returned to the Department and prior authorization to destroy the carcass is obtained from the Department.~~
~~U. When a raptor escapes, the licensee shall report the escape to any Department office within 5 days. Recapture may be accomplished at any time of the year by any falconer licensed pursuant to this rule. Any person recapturing a banded raptor shall notify the Department within 5 calendar days of the capture.~~
~~V. Within 5 calendar days of acquisition of any raptor by any method, or disposition of any raptor by any method, a falconer licensee shall submit to the Department a copy of a U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated 6/30/91, not including any later revisions, which is incorporated by reference herein. The form shall be completed and signed by the licensee in accordance with the instructions on the form. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service Regional Law Enforcement Office, Albuquerque, New Mexico, 87103.~~
~~W. Falconer licenses are subject to the provisions of R12-4-409.~~
~~X. This rule is effective January 1, 1995.~~

R12-4-422. Falconers: Licensing and Requirements

A. For the purposes of this Section, the following definitions apply:
1. "Eyas" means a flightless raptor that is found in the nest and is dependent upon a parent bird for food;
2. "Falconry" means the sport of taking quarry by means of a trained raptor;
3. "Passage" means a raptor in immature plumage, capable of flight and able to hunt and obtain its own food, and which is less than 1 year of age;
4. "Raptor" means a live migratory bird of the species great horned owl, *Bubo virginianus*, of the family Strigidae; any of the family Falconidae; and any of the family Accipitridae, other than the bald eagle, *Haliaeetus leucocephalus*; which under the provisions of this rule may be used in the practice of falconry;
5. "Sponsor" means a licensed Class II or Class III falconer who agrees to supervise and instruct no more than 3 Class I falconers in the practice of falconry at any 1 time.

B. The Department shall inspect the raptor housing facilities and equipment of any applicant not previously licensed in Arizona, and determine that the facilities and equipment meet the requirements of this rule, before issuing a license to the applicant. A license is valid from the date it is issued by the Department until the 3rd December from the date of issue. The Department shall issue falconer license to an applicant who complies with application procedures in this rule and meets the following criteria:
1. For a Class I Apprentice Falconer License:
a. Is 14 years of age or older;
b. Has a sponsor at the time of application, and shall provide to the Department a written commitment from the sponsor to continue sponsoring the applicant for the 1st 2 years as a licensed falconer;
c. Answers correctly at least 80% of the questions on an examination supervised and administered by the Department and approved by the U.S. Fish and Wildlife Service, relating to basic biology, care, and handling of raptors, and other subject matter related to falconry.

2. For a Class II General Falconer License:
   a. Is 18 years of age or older;
   b. Has at least 2 years of falconry experience at the Class I level, computed from the date that the applicant obtained the 1st Class I Apprentice Falconer License;
   c. Provides to the Department a letter of recommendation from a falconers' association affiliated with the North American Falconers Association, stating that the applicant is qualified and eligible to become a Class II falconer.
3. For a Class III Master Falconer License:
   a. Is 23 years of age or older;
   b. Has at least 5 years of falconry experience at the Class II level, computed from the date that the applicant obtained the 1st Class II General Falconer License.

C. Any new resident shall make application for an Arizona falconer license within 30 days of importing any raptor possessed by the authority of a falconer license issued by another lawful jurisdiction. Any applicant for an Arizona falconers license shall present any raptor in possession for inspection at the time of application.

D. Applicants shall provide the following information on a form available from the Department, and shall sign the completed form:
1. Name, address, and telephone number;
2. Physical description and date of birth;
3. Valid Arizona hunting license number and identification number;
4. The falconer license classification desired. Class I applicants shall supply their sponsor's name and address on the form;
5. The number of raptors the applicant possesses at the time of application and the species; age, if known; sex, if known; band numbers; date of acquisition; and source of each.

E. A Class I licensee may possess only 1 raptor at a time; the raptor may be lawfully obtained in another state. The Class I licensee shall obtain all birds from the wild and shall not obtain more than 1 raptor for replacement purposes during any calendar year. A Class I licensee shall not take an eyas bird.

F. A Class II licensee shall not possess more than 2 raptors at a time. The raptors may be any species except a golden eagle or a species listed as endangered or threatened. A Class II licensee shall not obtain more than 2 raptors during any calendar year.

G. A Class III licensee shall not possess more than 3 raptors at a time. The raptors may be of any species authorized by the U.S. Fish and Wildlife Service. A Class III licensee shall not obtain more than 2 raptors taken from the wild during any calendar year, but may obtain raptors from other lawful sources within the 3-raptor possession limit.

H. All falconer applicants and licensees shall provide either an indoor or outdoor housing facility with the following attributes, designed to protect the raptor from the environment, predators and undue disturbances:
1. Indoor facilities.
   a. An area large enough to allow easy access for caring for the raptors housed in the facility;
   b. An area for each bird large enough to allow each raptor to fully extend its wings, with perches textured to prevent foot problems;
   c. At least 1 window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a door that can be easily closed and secured;
   d. A well drained floor designed to permit easy cleaning;
   e. Tethers or partitions separating each raptor, if the licensee is keeping more than 1 raptor in the same facility.
2. Outdoor facilities.
   a. A fenced and covered enclosure with netting or wire, or roofed to protect the raptors from disturbance and attack by predators, except that perches more than 6½ feet high need not be covered or roofed;
   b. An enclosed area large enough to insure the raptors cannot strike the fence when flying from the perch;
   c. Protection from the sun, wind, and inclement weather for each raptor and perches which are textured to prevent foot problems.

I. All falconer applicants and licensees shall possess and use the following equipment:
1. At least 1 pair of jesses constructed of pliable, high-quality leather or synthetic material, containing bracelets to affix to each leg of a raptor, with a grommet through which a strap passes freely so that an escaped raptor can pull the strap out of the bracelet. The licensee shall use this equipment when any raptor is flown free. Licensees may use traditional 1-piece jesses on raptors only when not being flown;
2. At least 1 flexible, weather-resistant leash and 1 strong swivel designed for falconry;
3. At least 1 container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;
4. At least 1 raptor perch for each raptor;
5. A reliable scale or balance suitable for weighing the raptor or raptors, held and graduated to increments of not more than ½ ounce, or 15 grams.

J. A Class I, II, or III falconer licensed in Arizona or a state recognized by the U.S. Fish and Wildlife Service as meeting federal falconry standards may capture raptors for the purpose of falconry only, in accordance with the Commission order establishing raptor capture seasons for licensed falconers. When there is reason to believe that a species of raptors may be overharvested by nonresidents if the number of permits is not limited, the Commission shall specify the number of permits available to nonresidents in the Commission order.
1. During capture, the licensee shall have in possession the falconer license, Arizona hunting license, and any required hunt permit-tag issued to that licensee.
2. The licensee shall immediately release any nontarget raptor inadvertently captured. If the raptor is wearing a band or other marker the licensee shall report the capture and release of the marked bird to the Department, along with any identifying number and related information.
3. The licensee shall not remove any eyas raptor from any nest unless 1 or more live eyas raptors remain in the nest after the removal.
4. The licensee may capture raptors only with traps or bird nets which are unlikely to cause injury to the raptor, and shall not use mist nets, steel-jawed traps, or stupefying substances.
5. The licensee shall ensure that all traps or nets in use are in constant attendance, and that any raptor trap or net being used is plainly identified with the licensee's name and address.

6. The licensee shall present each captured Harris hawk, Gyrfalcon, or Peregrine falcon to the Department within 5 calendar days after capture. The licensee shall present each captured raptor of any other species to the Department within 14 calendar days after capture. A Department representative shall attach a numbered band to 1 leg of the lawfully obtained raptor. This band shall not be removed except by an authorized official of the Department, or except as provided in this rule. Licensees shall not alter, counterfeit, or deface a band but may remove the rear tab on the band and may smooth any imperfect surface provided the integrity of the band and numbering are not affected.

K. Licensees may use raptors for educational display.

L. Licensees may retain and exchange feathers that are molted or those feathers from raptors held in captivity that die only for purposes of repairing or replacing a broken feather with a feather.

M. If any raptor used in falconry incidentally kills any species of wildlife for which there is no open season or for which the season is closed, the licensee shall not take the dead wildlife into possession. The licensee shall leave the wildlife where it lies, but may allow the raptor making the kill to feed on the dead wildlife before leaving the site.

N. Licensees may transfer raptors taken from the wild in Arizona to an Arizona resident's federal raptor propagation license, with the concurrence of the U.S. Fish and Wildlife Service.

O. A licensee shall not transfer a raptor taken from the wild in Arizona to another falconer licensed outside of Arizona, or export the raptor from the state, without written authorization from the Department. The Department shall not authorize exportation transactions involving more than 2 raptors taken from the wild in Arizona, singly or in combination, per licensee in any calendar year. The Department shall deny any request for authorization of exportation when the number or species which have been or are being exported is not in the best interest of raptor management.

P. A licensee may place a raptor or raptors in temporary facilities, under the care of another licensee, for a period not to exceed 30 days, providing that the licensee gives written authorization to the other licensee for temporary care.

Q. A licensee may do 1 of the following when in possession of a raptor no longer used in the practice of falconry:
1. Release the raptor to the wild into suitable habitat, provided that the raptor was taken from the wild in Arizona, and that all jesses, markers or other equipment are removed, and that any federal marker is removed and returned to the Department within 10 days of release;
2. Give the raptor to another licensed falconer, except as provided in subsection (O);
3. Transfer the raptor to the Department;
4. Sell or trade the raptor, if it is a lawfully possessed captive bred raptor marked with a seamless leg band.

R. Licensees changing residence to another jurisdiction may export their lawfully possessed raptors.

S. A licensee shall transfer the carcass of a raptor which has died to a Department office, or destroy the carcass after receiving authorization for destruction of the carcass from the Department. The licensee shall remove any federal markers prior to destroying the carcass and return the markers to the Department.

T. A licensee shall report the escape of a raptor to the Department within 5 days. Any licensed falconer may recapture an escaped banded raptor at any time and shall notify the Department within 5 calendar days of the capture.

U. Within 5 calendar days of acquisition of any raptor by any method, or disposition of any raptor by any method, a falconer licensee shall submit to the Department a copy of a U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated June 30, 1991, not including any later revisions, which is incorporated by reference herein. The form shall be completed and signed by the licensee in accordance with the instructions on the form. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service Regional Law Enforcement Office, Albuquerque, New Mexico, 87103.

V. Falconer licensees are subject to the provisions of R12-4-409.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

PREAMBLE

1. Sections Affected — Rulemaking Action
R15-5-2215 — Amend

2. The specific authority for the rulemaking, including both the authorizing statue (general) and the statutes the rules are implementing (specific):
Authorizing statutes: A.R.S. §§ 42-105 and 42-1303

Implementing statute: A.R.S. § 42-1322

3. Effective date of the rule:
April 8, 1997

4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening:
1 A.A.R. 1783, October 6, 1995

Notice of Rulemaking Docket Opening:
1 A.A.R. 2959, December 29, 1995

Notice of Proposed Rulemaking:
2 A.A.R. 4071, September 27, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Christie Comanita, Tax Analyst
Address:	Tax Research and Analysis Section Department of Revenue 1600 West Monroe Phoenix, Arizona 85007
Telephone:	(602) 542-4672
Fax:	(602) 542-4680

6. An explanation of the rule, including the agency's reasons for initiating the rule:

Laws 1992, Ch. 333, 2nd Regular Session, amended A.R.S. § 42-1322 to provide for the due date for filing and paying transaction privilege taxes. The statutory provision requiring the payment of estimated transaction privilege tax was amended to require annual, rather than monthly, payments of the tax.

The Department of Revenue is amending the administrative rule on the payment of estimated transaction privilege tax. This rule is amended to reflect the legislative change in the requirement that taxpayers make estimated payments of transaction privilege tax from a monthly basis to an annual basis.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business and consumer impact:

Identification of the Rulemaking:
This rule is amended to reflect the legislative change that taxpayers make estimated payments of transaction privilege tax on an annual basis rather than a monthly basis.

Summary of Information in the Economic, Small Business, and Consumer Impact Statement:
The change from a monthly estimated payment requirement to an annual requirement should not cause a significant revenue impact. The amount of estimated tax due is based on the tax liability for a particular month. A taxpayer must pay either 50% of the liability for the prior month or the actual liability for the 1st 15 days of the current month. There was a 1-time acceleration of revenue at the start of requiring estimated payments of transaction privilege tax, the telecommunications services excise tax, and the county excise tax in 1989, however, the monies would have been remitted to the Department in the month following the month in which the gross receipts were received without the requirement to pay estimated tax.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Technical changes (Format, style, grammar, consistency):
Based on the review performed by staff to the Governor's Regulatory Review Council, the Department made non-substantive corrections and changes to punctuation and grammar, and to conform language to the Secretary of State's requirements.

R15-5-2215 "Return and Payment of Tax - Estimated Tax" is changed to read "Return and Payment of Tax - Estimated Tax"

R15-5-2215(A)(1) Changed "one half" to read "one-half."

R15-5-2215(A)(3)(b) Added "A.A.C." to reference to another administrative rule.

R15-5-2215(A)(3)(d) "Partnerships, Limited Liability Companies, S Corporations, trusts or" is changed to read "Partnerships, limited liability companies, S corporations, trusts or."

R15-5-2215(B)(1) Changed "their" to "its" in the example portion of the rule. Also changed the word "percent" to the "%" symbol.

R15-5-2215(B)(2) Changed the word "projected" to "anticipated".

R15-5-2215(D) Added comma after the word "credited."

R15-5-2215(E) Added the word "payment" after the word "late" and added a comma after the word "underpayment."

R15-5-2215(E)(1) Added semi-colon after the statute cite: A.R.S. § 42-136.

R15-5-2215(E)(2) Deleted the period in the statute cite and added "; and" after the cite.

R15-5-2215(F) Deleted "of this rule" following "subsection (E)." Inserted parenthesis around E in subsection (E).

10. A summary of the principal comments and the agency response to them:

The Department did not receive any written or oral comments on the rule action after the publication of the rulemaking in the Notice of Proposed Rulemaking.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

12. Incorporations by reference and their location in the rules:
None.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 22. ADMINISTRATION

Section
R15-5-2215. Return and Payment of Tax-estimated Tax

ARTICLE 22. ADMINISTRATION

R15-5-2215. Return and Payment of Tax-estimated Tax

A. ~~Definitions for purposes of estimated tax.~~ For purposes of this rule, the following definitions apply:

~~3.~~1. "Annual estimated ~~Estimated~~ tax ~~liability~~ payment" means ½ of the ~~actual~~ total tax liability for the entire ~~preceding~~ month of May or the ~~actual~~ total tax liability for the 1st 15 ~~fifteen~~ days of the ~~current~~ month of June. ~~"Annual tax liability" means total tax liability of $100,000.00 or more in the preceding calendar year or the taxpayer's reasonable anticipation of a total tax liability of $100,000.00 or more in the current year.~~

~~1.~~2. "Annual tax liability" means a total tax liability of $100,000.00 or more in the preceding calendar year or ~~the taxpayer's~~ a reasonable anticipation of a total tax liability of $100,000.00 or more in the current year. ~~"Can reasonably anticipate" means by the use of ordinary business care and prudence. Reasonableness depends on the fact of each case and the burden of proof rests on the taxpayer with regard to relief from penalty.~~

~~2. "Estimated tax liability" means ½ of the actual total tax liability for the entire preceding month or the actual total tax liability for the 1st 15 days of the current month.~~

~~4. "Reporting period" is a calendar month as designated by the tax return.~~

3. "Taxpayer" has the meaning set forth in A.R.S. § 42-1322(I). The following are considered a single taxpayer:
   a. Members of an Arizona-affiliated group filing a consolidated corporate income tax return under A.R.S. § 43-947;
   b. Corporations in a unitary business filing a combined corporate income tax return under A.A.C. R15-2-1131(E);
   c. Married taxpayers operating separate sole proprietorships and filing a joint income tax return; or
   d. Partnerships, Limited Liability Companies, S Corporations, trusts, or estates conducting multiple businesses, filing a single income tax return.

~~5. "Tax return" means the Sales, Use, and Severance Tax Return (ST-1).~~

~~6.~~4. "Total tax liability" means the combined ~~cumulative~~ total of the transaction privilege tax, telecommunications services excise tax, and county excise tax liabilities. ~~Use and severance tax are not subject to these estimated tax provisions.~~

~~C.~~B. The requirement to make ~~Arizona payments of~~ an annual estimated tax ~~liability~~ payment is based on the annual tax liability. Use tax and severance tax are not subject to the estimated tax provisions.

~~1. Payments of the estimated tax liability shall be made regardless of the amount of the monthly liability.~~

~~2.~~1. A taxpayer ~~This provision~~ shall make an annual estimated tax payment ~~apply~~ if ~~at any time~~ during ~~in~~ the current calendar year ~~that~~ the taxpayer, through use of ordinary business care and prudence, can ~~reasonably~~ anticipate incurring the annual tax liability. For example:

> ABC Company has been selling home electronics for several years. Their tax liability for previous calendar years has averaged between $60,000 and $70,000. In February of the current year, ABC Company begins selling computers and accessories as well. Early sales reports show an increase in total sales of approximately 50%. Based on these facts, ABC Company can reasonably anticipate incurring the annual tax liability.

~~3. The successor to a business which had a total tax liability of $100,000.00 or more in the preceding calendar year shall continue to make payments of the estimated tax liability after transfer of ownership.~~

~~4.~~2. Taxpayers with multiple locations shall make the annual estimated tax payment ~~of the annual estimated tax liability~~ based on the combined actual or projected annual tax liability from all locations. ~~These~~ Taxpayers ~~entities~~ with multiple locations, ~~which consolidate their monthly tax returns,~~ shall make ~~file only 1~~ a single estimated payment ~~original tax return~~ each June ~~month~~.

C. A taxpayer shall not amend an annual estimated tax payment ~~a tax return to change the amount of an estimate~~ except to increase the amount of the payment ~~or the estimate reporting period~~.

~~D. Any monies remitted with the tax return, or additional payments made, as denoted in subsection (F), shall be applied to the estimated tax liability 1st.~~

~~1. The remaining amount of such payments shall become a credit against the tax liability for the reporting period to which the estimated tax liability payment applies.~~

~~2.~~D. ~~Payment of~~ ~~The~~ the annual estimated tax payment ~~liability~~ shall not be applied, credited, or refunded until a ~~tax return~~ Transaction Privilege, Use, and Severance Tax Return (TPT-1) for the ~~reporting period to which the payment applies~~ month of June is filed.

E. Late payment, underpayment, or non-payment of the annual estimated tax payment ~~liability~~ shall result in the following:

1. Application of the penalty provisions ~~of~~ under A.R.S. § 42-136~~(D), (E), and (F)~~.
2. Accrual of interest beginning from the due date of ~~as prescribed in A.R.S. § 42-1322(D) on which~~ the annual estimated tax payment ~~liability~~ as prescribed in A.R.S. § 42-1322(D); and
3. Loss of the accounting credit, as defined in A.R.S. § 42-1322.04 for the June reporting period.

~~F. A taxpayer may file additional payments for the estimated tax liability, as desired, before the due date of the tax return for the reporting period to which the estimate applies, subject to the provisions of subsection (E).~~

~~G.~~**F.** Taxpayers who are not required to make the annual estimated tax payment ~~payments~~ but make a voluntary annual estimated ~~payments~~ payment are ~~shall~~ not ~~be~~ subject to ~~penalty and interest for purposes of estimated tax~~ subsection (E).